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General Laws, Amendments to the Codes, Resolutions,
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California Legislature

1999–2000 Regular Session

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CHAPTER 367

An act relating to the California School for the Deaf, and making an appropriation therefor.

[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) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 11011 of the Government Code or Section 118 of the Streets and Highways Code, the Department of General Services, in consultation with the State Department of Education, may sell to the City of Fremont the real property described in this section for current market value upon terms and conditions that are in the best interest of the state. The primary purpose of this section is to secure sufficient net proceeds for repair and upgrade of the California School for the Deaf, rather than to transfer the property for other suitable state or local government purposes. However, the Department of General Services may transfer the property for the purpose of expansion of the adjacent street if sufficient net proceeds will be realized for the purposes set forth in this section.

(b) The net proceeds from the sale of the real property at the California School for the Deaf, Northern California, further described in subdivision (e) are hereby appropriated to the State Department of Education for the 2000–01 fiscal year in augmentation of the support appropriation for the California School for the Deaf.

(c) The funds appropriated pursuant to this section shall be allocated to the California School for the Deaf, Northern California, for the purpose of repairing and upgrading the middle school activity center and any necessary and related facility improvements, as determined by the State Department of Education.

(d) Funds appropriated pursuant to this section shall augment rather than supplant any past appropriations to the State Department of Education for the California School for the Deaf in Northern California for similar purposes.

(e) The real property set forth in subdivision (a) is described as follows: approximately a 58 foot wide strip of property fronting Stevenson Boulevard between Gallaudet Drive and Mission Boulevard, in the City of Fremont, in Alameda County, California.

(f) From the proceeds of the sale of property pursuant to this section, the Department of General Services shall be reimbursed for its costs

related to the sale, including, but not limited to, any survey costs, title transfer fees, and department staff time.

CHAPTER 368

An act to amend Section 103885 of, and to amend the heading of Chapter 2 (commencing with Section 103875) of Part 2 of Division 102 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. The heading of Chapter 2 (commencing with Section 103875) of Part 2 of Division 102 of the Health and Safety Code is amended to read:

CHAPTER 2. KEN MADDY CALIFORNIA CANCER REGISTRY

SEC. 2. Section 103885 of the Health and Safety Code is amended to read:

103885. (a) The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based cancer registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section the director shall begin phasing in the statewide cancer reporting system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

(b) The department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall provide, on a timely basis, cancer incidence data as designated by the state department to the department. The department may contract with an agency, including, but not limited to, a health systems agency, single county health department, multicounty health department grouping, or nonprofit professional association, representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data.

(c) The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

(d) (1) Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the department in a format prescribed by the department. If the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the state department or the authorized representative for its cost to access and report the information.

(2) Any physician and surgeon, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients shall report each cancer case to the department or the authorized representative of the department except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

(e) Any hospital or other facility that is required to reimburse the department or its authorized representative for the cost to access and report the information pursuant to subdivision (d) shall provide payment to the department or its authorized representative within 60 days of the date this payment is demanded. In the event any hospital or other facility fails to make the payment to the department or its authorized representative within 60 days of the date the payment is demanded, the department or its authorized representative may, at its discretion, assess a late fee not to exceed $1^1/_2$ percent per month of the outstanding balance. Further, in the event that the department or its authorized representative takes a legal action to recover its costs and any associated fees, and the department or its authorized representative receives a judgment in its favor, the hospital or other facility shall also reimburse the department or its authorized representative for any additional costs it incurred to pursue the legal action. Late fees and payments made to the department by hospitals or other facilities pursuant to this subdivision shall be considered as reimbursements of the additional costs incurred by the department.

(f) All physicians and surgeons, hospitals, outpatient clinics, nursing homes and all other facilities, individuals or agencies providing diagnostic or treatment services to patients with cancer shall grant to the

department or the authorized representative access to all records that would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars ($500) each day access is refused. Any fines collected pursuant to this subdivision shall be deposited in the General Fund.

(g) All information reported pursuant to this section shall be confidential as provided in Section 100330, except that the department and any regional cancer registry designated by the department shall use the information to determine the sources of malignant neoplasms and evaluate measures designed to eliminate, alleviate, or ameliorate their effect. The department and any regional cancer registry designated by the department may enter into agreements to furnish confidential information to other states' cancer registries, federal cancer control agencies, local health officers, or health researchers for the purposes set forth in this subdivision if those out-of-state registries, agencies, officers, or researchers agree in writing to maintain the confidentiality of the information, and in the case of researchers, if they have obtained the approval of their committee for the protection of human subjects established in accordance with Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(h) For the purpose of this section, ''cancer'' means either of the following:

(1) All malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(2) All primary intracranial and central nervous system (CNS) tumors occurring in the following sites, irrespective of histologic type: brain, meninges, spinal cord, caudae equina, cranial nerves and other parts of the CNS, pituitary gland, pineal gland, and craniopharyngeal duct.

(i) Nothing in this section shall preempt the authority of facilities or individuals, providing diagnostic or treatment services to patients with cancer, to maintain their own facility-based cancer registries.

(j) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

SEC. 3. Section 103885 of the Health and Safety Code is amended to read:

103885. (a) The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based cancer registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section, the director shall begin phasing in the statewide cancer reporting

system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

(b) The department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall provide, on a timely basis, cancer incidence data as designated by the state department to the department. The department may contract with an agency, including, but not limited to, a health systems agency, single county health department, multicounty health department grouping, or nonprofit professional association, representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data.

(c) The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

(d) (1) Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the department in a format prescribed by the department. If the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the state department or the authorized representative for its cost to access and report the information.

(2) Any physician and surgeon, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients shall report each cancer case to the department or the authorized representative of the department except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

(e) Any hospital or other facility that is required to reimburse the department or its authorized representative for the cost to access and report the information pursuant to subdivision (d) shall provide payment to the department or its authorized representative within 60 days of the date this payment is demanded. In the event any hospital or other facility

fails to make the payment to the department or its authorized representative within 60 days of the date the payment is demanded, the department or its authorized representative may, at its discretion, assess a late fee not to exceed $1^1/_2$ percent per month of the outstanding balance. Further, in the event that the department or its authorized representative takes a legal action to recover its costs and any associated fees, and the department or its authorized representative receives a judgment in its favor, the hospital or other facility shall also reimburse the department or its authorized representative for any additional costs it incurred to pursue the legal action. Late fees and payments made to the department by hospitals or other facilities pursuant to this subdivision shall be considered as reimbursements of the additional costs incurred by the department.

(f) All physicians and surgeons, hospitals, outpatient clinics, nursing homes and all other facilities, individuals or agencies providing diagnostic or treatment services to patients with cancer shall grant to the department or the authorized representative access to all records that would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars ($500) each day access is refused. Any fines collected pursuant to this subdivision shall be deposited in the General Fund.

(g) (1) All data including, but not limited to, medical and pathology records, records of health status, interviews, questionnaires, reports, statements, notes, and memoranda collected pursuant to this section shall be confidential. Access shall be limited to the department and any regional registry designated by the department except as otherwise provided in this subdivision.

(2) The department and any regional cancer registry designated by the department may enter into agreements to furnish confidential data to other states' cancer registries, federal cancer control agencies, local health officers, or health researchers for the purposes of determining the sources of malignant neoplasms and evaluating measures designed to eliminate, alleviate, or ameliorate their effect. Before confidential data are disclosed to those out-of-state registries, agencies, officers, or researchers, the requesting entity shall agree in writing to maintain the confidentiality of the information, and, in the case of researchers, shall do both of the following:

(A) Obtain approval of their committee for the protection of human subjects established in accordance with Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(B) Provide documentation to the department that demonstrates to the department's satisfaction that the entity has established the procedures and ability to maintain the confidentiality of the information.

(3) Confidential data may be disclosed to other local, state, or federal public health or environmental agencies, or to collaborating medical researchers, when the confidential data are necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the department.

(4) Any disclosure authorized by this section shall include only the information necessary for the stated purpose of the requested disclosure and shall be made only upon written agreement that the information will be kept confidential and will not be further disclosed without written authorization of the department.

(5) The furnishing of confidential data to the department or its authorized representative or to any other cooperating individual, agency, or organization in any study in accordance with this subdivision shall not expose any person, agency, or entity furnishing data to liability and shall not be considered to be the violation of any privileged or confidential relationship.

(6) (A) There shall be a rebuttable presumption that the necessity for preserving the confidentiality of the data outweighs the necessity for disclosure. The confidential data may only be subject to discovery or subpoena if the party seeking the disclosure rebuts the presumption. This presumption may only be overcome if the court finds that the disclosure of the information will serve to protect public health or safety.

(B) If the court finds that the presumption has been rebutted and the confidential data is subject to discovery or subpoena, certain confidential information shall be redacted. This information includes personal names, addresses, telephone numbers, social security numbers, personal identification numbers, insurance policy numbers, specific places of employment and education, any other data that identifies or accesses the participant or any friends, employers, or associates of the participant, and any other data the court deems appropriate. The party requesting the data shall be responsible for all costs associated with the production of the data, including costs attributable to any time required to redact the confidential information. The party requesting the data shall demonstrate the ability to ensure data security and confidentiality.

(7) (A) Notwithstanding any other provision of law, any person who violates this subdivision shall be subject to civil and criminal penalties and other actions in accordance with Section 56.36 of the Civil Code.

(B) Any person who intentionally discloses confidential data to any third party, except as authorized in this subdivision, may be denied further access to confidential data maintained by the department.

(8) Nothing in this subdivision shall prohibit the publication by the department of reports and statistical compilations relating to the causes of malignant neoplasms or measures to eliminate, alleviate, or ameliorate the effect of malignant neoplasms that do not identify individual cases and sources of information or religious affiliations.

(h) For the purpose of this section, ''cancer'' means either of the following:

(1) All malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(2) All primary intracranial and central nervous system (CNS) tumors occurring in the following sites, irrespective of histologic type: brain, meninges, spinal cord, caudae equina, cranial nerves and other parts of the CNS, pituitary gland, pineal gland, and craniopharyngeal duct.

(i) Nothing in this section shall preempt the authority of facilities or individuals, providing diagnostic or treatment services to patients with cancer, to maintain their own facility-based cancer registries.

(j) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

SEC. 4. Section 3 of this bill incorporates amendments to Section 103885 of the Health and Safety Code proposed by both this bill and SB 1596. 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 103885 of the Health and Safety Code, and (3) this bill is enacted after SB 1596, in which case Section 2 of this bill shall not become operative.

CHAPTER 369

An act to amend Section 63000 of, to add a chapter heading to, and to add Chapter 2 (commencing with Section 63050) to, Part 35 of, the Education Code, relating to categorical education programs.

[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 chapter heading is added to Part 35 (commencing with Section 63000) of the Education Code, immediately preceding Section 63000, to read:

CHAPTER 1. EXPENDITURE FOR DIRECT SERVICES TO PUPILS

SEC. 2. Section 63000 of the Education Code is amended to read:

63000. The provisions of this chapter shall apply to funds received for the following categorical programs:

(a) Child care and development programs pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(b) School library programs pursuant to Chapter 2 (commencing with Section 18100) of Part 11.

(c) School improvement programs pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(d) Bilingual education programs pursuant to Article 1 (commencing with Section 52000) and Article 3 (commencing with Section 52160) of Chapter 7 of Part 28.

(e) Economic Impact Aid programs pursuant to Chapter 1 (commencing with Section 54000) of Part 29.

(f) The Miller-Unruh Basic Reading Act of 1965 pursuant to Chapter 2 (commencing with Section 54100) of Part 29.

(g) Compensatory education programs pursuant to Chapter 4 (commencing with Section 54400) of Part 29, except for programs for migrant children pursuant to Article 3 (commencing with Section 54440) of Chapter 4 of Part 29.

SEC. 3. Chapter 2 (commencing with Section 63050) is added to Part 35 of the Education Code, to read:

CHAPTER 2. PILOT PROJECT FOR CATEGORICAL EDUCATION PROGRAM FLEXIBILITY

63050. There is hereby established the Pilot Project for Categorical Education Program Flexibility under which a school district selected to participate in the pilot project shall have flexibility as described in this chapter in the expenditure of the funding the school district receives for the categorical education programs listed in the following three clusters:

(a) The school improvement and staff development cluster consisting of the following programs:

(1) Administrator training and education as set forth in Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25.

(2) Bilingual Teacher Training and Assistance as set forth in Article 4 (commencing with Section 52180) of Chapter 7 of Part 28.

(3) Demonstration programs in intensive instruction as set forth in Chapter 4 (commencing with Section 58600) of Part 31.

(4) Early Intervention for School Success as set forth in Article 4.5 (commencing with Section 58685) of Chapter 9 of Part 29.

(5) Intersegmental Staff Development. For the purposes of this chapter, intersegmental staff development shall not include any of the following:

(A) The English Language Acquisition Program pursuant to Chapter 4 (commencing with Section 400) of Part 1.

(B) The Professional Development Institutes pursuant to Article 2 (commencing with Section 99220) of Chapter 5 of Part 65.

(6) High school coach training as set forth in Article 4.5 (commencing with Section 35179) of Chapter 2 of Part 21.

(7) Miller-Unruh Basic Reading Act of 1965 as set forth in Chapter 2 (commencing with Section 54100) of Part 29.

(8) Reader services for the blind as set forth in Article 8.5 (commencing with Section 45370) of Chapter 5 of Part 25.

(9) School-based management and advanced career opportunities for classroom teachers as set forth in Article 12 (commencing with Section 44666) of Chapter 3 of Part 25.

(10) School development plans and resource consortia as set forth in Article 1 (commencing with Section 44670.1) of, and Article 2 (commencing with Section 44680) of, Chapter 3.1 of Part 25.

(11) Improvement of elementary and secondary education as set forth in Chapter 6 (commencing with Section 52000) of Part 28.

(12) Specialized secondary program grants as set forth in Chapter 6 (commencing with Section 58800) of Part 31.

(13) Student vocational education organizations as set forth in subdivision (b) of Section 19632 of the Business and Professions Code.

(14) Gifted and Talented Pupils as set forth in Chapter 8 (commencing with Section 52200) of Part 28.

(b) The alternative and compensatory education cluster consisting of the following programs:

(1) Agricultural vocational education incentives as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) California Indian education centers as set forth in Article 6 (commencing with Section 33380) of Chapter 3 of Part 20.

(3) Dropout prevention as set forth in Article 6 (commencing with Section 52890) of, and Article 7 (commencing with Section 52900) of, Chapter 12 of Part 28, Article 7 (commencing with Section 54720) of Chapter 9 of Part 29, and Chapter 3.5 (commencing with Section 58550) of Part 31.

(4) Economic Impact Aid as set forth in Article 2 (commencing with Section 54020) of Chapter 1 of Part 29.

(5) Foster youth programs as set forth in Chapter 11.3 (commencing with Section 42920) of Part 24.

(6) Opportunity classes and programs as set forth in Article 2.3 (commencing with Section 48643) of Chapter 4 of Part 27.

(7) Tenth grade counseling as set forth in Sections 48431.6 and 48431.7.

(c) The school district improvement cluster consisting of the following programs:

(1) Home-to-school transportation as set forth in Article 10 (commencing with Section 41850) of Chapter 5 of, and Article 4.5 (commencing with Section 42290) of Chapter 7 of, Part 24.

(2) Voluntary desegregation as set forth in Section 42247 and 42249.

(3) Year-round school grants as set forth in Article 3 (commencing with Section 42260) of Chapter 7 of Part 24.

63051. (a) The Superintendent of Public Instruction, with the approval of the State Board of Education, shall select not more than 75 school districts that apply to participate in the pilot project established pursuant to this chapter.

(b) Each school district that applies to participate in the pilot project established pursuant to this chapter shall submit a project budget with the application. The project budget shall specify how categorical program funding will be allocated or reallocated under the pilot project. No school district may participate in the pilot project unless the district's proposed plan is approved by the State Board of Education.

(c) The superintendent shall determine the 25 largest school districts in the state on the basis of pupil enrollment as of October 1999. From this list, the superintendent shall select no more than one school district from the largest five school districts and no more than four school districts from the remaining 20 largest school districts to participate in the pilot project. If more than one of the largest five school districts applies, or more than four school districts from the remaining 20 school districts applies, the superintendent shall select those school districts to participate in the pilot project by lottery.

(d) After making selections pursuant to subdivision (b), the superintendent may select up to 70 additional participants from applicant school districts. The superintendent shall ensure that participating school districts are broadly representative of the state, including small school districts, urban school districts, rural school districts, suburban school districts, elementary school districts, high school districts, and unified school districts.

(e) A school district approved for participation shall have a minimum of five years of funding flexibility as described in this chapter commencing on and after the 2000–01 fiscal year.

63052. (a) A school district participating in the pilot project is exempt from the program requirements and regulations for those categorical education programs listed in Section 63050.

(b) Notwithstanding any other provision of law, a school district participating in the pilot project shall receive the same amount of funds

for the categorical programs constituting the three clusters described in Section 63050 while participating in the pilot project as the school district received for those programs in the year prior to participation in the pilot project, plus growth and cost-of-living adjustments if approved in the annual Budget Act. However, nothing in this section shall be construed to allow program expansion for any of the categorical programs contained in the clusters specified in Section 63050 that are also included in subdivision (b) of Section 63051. All funding for those programs is suspended for the duration of the district's pilot program participation.

(c) A school district participating in the pilot project shall not be entitled to receive, and may not receive, funding in replacement of categorical funds that have been redirected or otherwise reduced pursuant to this chapter. This subdivision may not be construed to prevent a school district from receiving funds that the district is otherwise eligible to receive for cost-of-living adjustments, or growth adjustments that are allocated in accordance with this code, unless otherwise provided for in the annual budget process.

63053. (a) Each school district participating in the pilot project shall annually report to the State Department of Education information requested pursuant to this section, in order to determine the following:

(1) Revisions to categorical program implementation and local allocation of funds made pursuant to the district's participation in the pilot project.

(2) Academic progress of pupils, as determined by test scores, grades assigned, and other measures, reported by grade level.

(b) Each school district participating in the pilot project shall separately report to the State Department of Education assessment data for English language learners, pupils who qualify for compensatory education, gifted pupils, pupils by gender, and all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. A numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. For the purposes of this section, assessment data shall include test results and related information from all testing conducted pursuant to Chapter 5 (commencing with Section 60600) of Part 33, Chapter 8 (commencing with Section 60850) of Part 33, and any other standardized testing administered by the participating district.

(c) The State Department of Education shall report to the Governor and the education policy and fiscal committees of both houses of the Legislature on the pilot projects established pursuant to this chapter in accordance with the following schedule:

(1) By February 1, 2002, the State Department of Education shall submit a summative report of information collected pursuant to subdivisions (a) and (b).

(2) By February 1, 2003, the State Department of Education shall submit a preliminary evaluation of the pilot projects, prepared in accordance with subdivision (d).

(3) By February 1, 2004, the State Department of Education shall submit a summative report of information collected pursuant to subdivisions (a) and (b).

(4) By February 1, 2005, the State Department of Education shall submit a final evaluation of the pilot projects, prepared in accordance with subdivision (d).

(d) The State Department of Education shall prepare, or contract for the preparation of, evaluations of the pilot projects established pursuant to this chapter. Among other matters, these evaluations shall be designed to assess the effect of the pilot projects, if any, on pupil achievement, including the achievement of those groups of pupils for whom assessment data is separately reported pursuant to subdivision (b). Preliminary and final evaluations shall be submitted pursuant to subdivision (c). It is the intent of the Legislature that funds be provided in appropriate budget acts to conduct the evaluations required by this section and that further direction for conduct of the evaluations may be provided through instructions attached to those appropriations.

(e) The Superintendent of Public Instruction shall convene a group consisting of a representative of the Secretary for Education and representatives from the State Department of Education, Office of the Legislative Analyst, and the Department of Finance, to advise the State Department of Education regarding the evaluation of the pilot projects established by this chapter.

(f) After the initial two-year period, the oversight group convened pursuant to subdivision (e) shall review the academic progress of pupils and make a recommendation to the State Board of Education regarding a district's continued participation in the pilot project.

63054. (a) A school district approved for participation in the pilot project may expend the funds from the programs in the school improvement and staff development cluster to improve the quality of instruction and to improve pupil performance and shall expend those funds in a manner that is consistent with the intent of those programs taken as a whole.

(b) Notwithstanding subdivision (a) of Section 63052, a school district is not exempt from the program requirements concerning schoolsite plans and councils.

(c) The schoolsite council and the governing board of the school district shall approve the schoolsite expenditure plans and budgets for

the funds received for the purposes of the school improvement and staff development cluster.

63055. A school district approved for participation in the pilot project may expend the funds from the programs in the alternative and compensatory education cluster to support alternative education settings and compensatory services provided that those settings and services are consistent with the intent of the programs composing the alternative and compensatory education cluster. Participating school districts shall continue to allocate funds in the alternative and compensatory education cluster to schools with the largest number or percentage of pupils in need of alternative and compensatory education.

63056. A school district approved for participation in the pilot project may expend the funds from the programs in the school district improvement cluster for any high priority program that the district considers will improve pupil performance or will be a more effective use of resources.

CHAPTER 370

An act relating to the California State University.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

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

(a) The California State University at Los Angeles and the Los Angeles County High School for the Arts have long sought a theater in which to perform the approximately 200 dramatic, music, and dance events produced each year by the 20,000 students at their campuses. Both schools are recognized for their extensive and impressive performing arts programs, and they have received many awards for their productions. However, they do not have an adequate facility for their performances, forcing administrators to seek temporary venues in distant communities.

(b) A performing arts center would bring hundreds of students, their families, and other theater patrons to downtown Los Angeles several evenings each week. The two schools would benefit from having a visible and important downtown location for their performing arts events, and the city would benefit from the new life brought by the students' activities.

(c) The establishment of a performing arts center in the former cathedral is supported by a wide array of civic and governmental bodies, including the Archdiocese of Los Angeles, the Los Angeles Conservancy, California State University, the office of the Mayor of the City of Los Angeles, the City Council of the City of Los Angeles, the Los Angeles Chamber of Commerce, the Little Tokyo Service Center, and others.

(d) The former St. Vibiana's Cathedral is a major cultural landmark of downtown Los Angeles, being the first cathedral built in California south of San Francisco. The cathedral served for 120 years as the seat of the Archdiocese of Los Angeles, and its history is closely intertwined with City of Los Angeles and the religious heritage of southern California.

(e) The cathedral building is listed on the National Register of Historic Places, and it occupies a crucial location in downtown Los Angeles, one and one-half blocks from City Hall, that links the civic center with the reviving historic core and the Little Tokyo district.

(f) The legacy of the cathedral is now threatened, and its important role in the city's life could be lost to future generations. The structure was closed in 1994 after suffering damage from the Northridge earthquake, and the archdiocese is now constructing a new cathedral, Our Lady of the Angels, at another downtown site.

(g) Downtown Los Angeles would benefit economically and socially from the revitilization and reuse of the cathedral. The reuse would further invigorate the historic core of the city, bring street life back to the surrounding neighborhood, and ensure that the heritage of the cathedral is preserved.

(h) The Los Angeles Restoration Foundation is seeking to restore the former St. Vibiana's Cathedral, in partnership with public agencies and the private sector, and adapt the building for reuse as a performing arts center. When work is completed the foundation will offer the center to the two schools as a permanent home for their performing arts programs.

(i) The Los Angeles Restoration Foundation is working to secure funding for the performing arts center from private sources as well as from the City of Los Angeles, the County of Los Angeles, and other public agencies.

(j) Provision 21 of Schedule (a) of Item 6610-001-0001 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) provides four million dollars ($4,000,000) in one-time funds to be used to fund the California State University Los Angeles Performing Arts Center.

CHAPTER 371

An act to add Section 69613.7 to the Education Code, relating to student financial aid.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 69613.7 is added to the Education Code, to read:

69613.7. (a) For the purposes of this article, ''subject matter shortage area'' may not be construed to include teaching in a self-contained classroom or teaching pursuant to a multiple subject credential.

(b) The list, furnished by the Superintendent of Public Instruction pursuant to Section 69613.1 and relating to teaching fields that have the most critical shortage of teachers, shall not include teaching in a self-contained classroom or teaching pursuant to a multiple subject credential.

CHAPTER 372

An act to add Section 5080 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 5080 is added to the Vehicle Code, to read:

5080. (a) The department, in consultation with the Rotary International Foundation, shall design and make available for issuance, pursuant to this article, special interest license plates. The special interest license plates issued under this section shall contain the words ''Service Above Self'' and the emblem of Rotary International. The plates may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101, upon payment of the additional fees set forth in subdivision (b), may apply for and be issued a set of special interest license plates described in this subdivision.

(b) In addition to the regular fees for an original registration, a renewal of registration, or a transfer or substitution of the license plates,

the following additional fees shall be paid for the issuance, renewal, retention, transfer, or substitution of the special interest license plates authorized by this section:

(1) For the original issuance of the plates, seventy-five dollars ($75).

(2) For a renewal of registration with the plates, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) For the conversion of an existing special license plate to the Rotary International special interest license plate authorized pursuant to this section, sixty-five dollars ($65).

(c) After deducting its administrative costs under this section, the department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of the Rotary International special interest license plates into the Rotary International Foundation Account, which is hereby created in the General Fund. The funds, when appropriated by the Legislature, shall be allocated by the Controller to the Rotary International Foundation for educational, international outreach, community service, and humanitarian purposes.

(d) Any organization participating in the special interest license plate program pursuant to this section shall comply with all of the requirements imposed on participating organizations pursuant to Section 5060.

CHAPTER 373

An act to amend Section 4301 of the Fish and Game Code, and to amend Sections 18943, 18946, 18947, 18991, 19000, 19001, 19013, 19016, 19020, and 19501 of, and to add Section 18963 to, the Food and Agricultural Code, relating to meat.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 4301 of the Fish and Game Code is amended to read:

4301. (a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or transport for the purpose of sale, any deer meat in this state whether fresh, smoked, canned, or preserved by any means, except fallow deer meat processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing

with Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, and except that deer meat may be imported into this state from a foreign country for the purpose of processing (manufacturing) and selling a product commonly known as venison or deer jerky or venison or deer salami, properly labeled as such, for human consumption. All deer meat imported into this state shall meet all of the sanitary and inspection requirements for wholesomeness, except an antemortem inspection, but including a postmortem inspection, as required for other meat imported for human consumption. The deer meat shall be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight of the deer meat shipped. A copy of the bill of lading shall be delivered to the nearest office of the department either prior to, or not later than, two days from the date of receipt of the deer meat. No such deer meat imported into this state may leave the premises of the original consignee unless written permission is received from the department, or unless it is processed into the form of the product commonly known as jerky or salami.

(b) As used in this section, ''deer'' includes any animal of the family Cervidae.

SEC. 1.5. Section 18943 of the Food and Agricultural Code is amended to read:

18943. ''Livestock'' means any cattle, sheep, swine, and goat, and pursuant to regulations adopted by the Fish and Game Commission, for the purposes of Chapter 4 (commencing with Section 18650) and this chapter, fallow deer (Dama dama) whether alive or dead.

SEC. 2. Section 18946 of the Food and Agricultural Code is amended to read:

18946. ''Custom livestock slaughterhouse'' means a licensed establishment where:

(a) Cattle, sheep, swine, or goats are slaughtered and prepared for the owners of the livestock.

(b) Fallow deer are slaughtered and prepared for transportation or sale, or transportation and sale.

SEC. 3. Section 18947 of the Food and Agricultural Code is amended to read:

18947. ''Meat processing establishment'' means a licensed establishment required to be inspected pursuant to Chapter 4 (commencing with Section 18650) where livestock or poultry products are prepared by curing, drying, smoking, or rendering, or where livestock products of swine are cooked, and the products are sold on the premises to household consumers, and a licensed establishment where fallow deer products may be prepared for transportation or sale, or transportation and sale.

SEC. 4. Section 18963 is added to the Food and Agricultural Code, to read:

18963. The department, in consultation with the State Department of Health Services, shall, on or before December 31, 2001, adopt, by regulations, standards and requirements relating to inspection, sanitation, facilities, equipment, reinspection, preparation, processing, buying, selling, transporting, storing, identification, recordkeeping, registration and labeling, and marking for fallow deer slaughtered and processed under this chapter. The regulations shall provide for the safe and humane handling and transportation of the fallow deer to a state inspected slaughter facility. No custom livestock slaughterhouse or meat processing establishment shall be approved by the department to slaughter or process fallow deer until adoption of these regulations.

SEC. 5. Section 18991 of the Food and Agricultural Code is amended to read:

18991. (a) A licensed livestock meat inspector, in accordance with regulations adopted hereunder, shall conduct antemortem examination of each animal to be slaughtered in a licensed establishment and shall permit the slaughter of apparently healthy animals and withhold from slaughter all animals suspected, as well as those plainly showing evidence, of a disease. Animals so withheld shall be examined by a department employee who shall order the disposition of the animal pursuant to the regulations adopted hereunder.

(b) The licensed livestock meat inspector shall conduct a postmortem examination and make dispositions of carcasses and parts thereof in accordance with regulations adopted hereunder.

(c) A licensed livestock meat inspector shall conduct a sanitation inspection before the establishment commences operations for the day, and make periodic inspections throughout the day.

(d) The licensed livestock meat inspector shall order the establishment not to begin operations or to cease operations at any time that the establishment sanitation fails to meet the requirements of this chapter and the regulations adopted thereunder, or at any time any product is not handled, retained, condemned, or disposed of in violation of this chapter or the regulations thereunder.

(e) (1) Passed carcasses and parts of cattle, sheep, swine, and goat shall be stamped by the licensed livestock meat inspector or under his or her supervision with an approved California identification number.

(2) Passed carcasses and parts of fallow deer slaughtered and prepared for transportation or sale shall be stamped with an approved mark of inspection.

SEC. 6. Section 19000 of the Food and Agricultural Code is amended to read:

19000. Each person, before acting as a licensed processing inspector in a retail meat processing establishment, shall apply to the department and receive from the department a license after passing an examination and a demonstration that shows the applicant's ability to understand laws and regulations that pertain to meat inspection and a practical knowledge of all the following:

(a) Conditions that affect adulteration, misbranding, and wholesomeness of livestock and poultry products.

(b) Sanitary meat and poultry processing procedures.

(c) Sanitation of the facilities and the equipment used in retail meat processing establishments.

SEC. 7. Section 19001 of the Food and Agricultural Code is amended to read:

19001. (a) A licensed processing inspector shall conduct a sanitation inspection before the establishment commences operations for the day, and shall make periodic inspections throughout the day.

(b) The licensed processing inspector shall order the establishment not to begin operations or to cease operations at any time that the establishment sanitation fails to meet the requirements of this chapter and the regulations adopted thereunder, or at any time any product is not handled, retained, condemned, or disposed of in violation of this chapter or the regulations thereunder.

(c) The licensed processing inspector shall direct the application of the mark of inspection as provided by regulations on products that are inspected by him or her and found to be wholesome, not adulterated, and derived from (1) United States Department of Agriculture inspected carcasses, or (2) fallow deer carcasses at custom livestock slaughterhouses.

SEC. 8. Section 19013 of the Food and Agricultural Code is amended to read:

19013. No person shall operate a meat processing establishment unless all livestock and poultry products used in processing and to be sold have been inspected by the United States Department of Agriculture, fallow deer products have been inspected at a custom livestock slaughterhouse, or poultry products have been inspected in accordance with the requirements of Chapter 3 (commencing with Section 24951) of Part 1 of Division 12 and the processing of the product is inspected by a licensed processing inspector.

SEC. 9. Section 19016 of the Food and Agricultural Code is amended to read:

19016. (a) (1) Except as provided in paragraph (2), all custom slaughtered livestock carcasses and parts shall be marked in a manner required by the department to identify the inspected premises and that the products are not for sale.

(2) Fallow deer carcasses and parts thereof intended for transportation or sale shall be marked in a manner required by the department to identify the inspected premises and to show that the products have been inspected under this chapter.

(b) The department shall determine, by regulation, the official design of the marks that are required by this chapter.

SEC. 10. Section 19020 of the Food and Agricultural Code is amended to read:

19020. This chapter does not apply to any of the following:

(a) Owners who slaughter, on their own premises, livestock of their own raising where the meat is not for sale, but used exclusively by the owners, members of the owner's household, the owner's employees, and nonpaying guests.

(b) A mobile slaughter operator who provides services to an owner as specified in subdivision (a) where the slaughter occurs on the owner's premises and the meat is thereafter transported for the owner to an establishment for further processing.

(c) Persons solely engaged in cutting, wrapping, and otherwise processing farm or custom slaughter livestock or the processing and sale of fresh meats derived from United States Department of Agriculture inspected carcasses, except the curing, smoking, and preparing of cooked or smoked sausages or cooked pork products that are not exempted under subdivision (b) of Section 18814.

(d) Livestock slaughter and meat and poultry processing inspected by the United States Department of Agriculture.

SEC. 11. Section 19501 of the Food and Agricultural Code is amended to read:

19501. (a) Cattle, calves, horses, mules, sheep, swine, goats, or fallow deer, or poultry shall be slaughtered by the methods prescribed in this section. No state agency shall contract for, purchase, procure, or sell all or any portion of any animal, unless that animal is slaughtered in conformity with this chapter. This chapter applies to any person engaged in the business of slaughtering animals enumerated in this section, or any person slaughtering any of those animals when all, or any part of, that animal is subsequently sold or used for commercial purposes.

(b) All cattle, calves, horses, mules, sheep, swine, goats, or fallow deer subject to this part, or poultry subject to Part 1 (commencing with Section 24501) of, Part 2 (commencing with Section 25401) of, and Part 3 (commencing with Section 26401) of, Division 12 shall be slaughtered by either of the following prescribed methods:

(1) The animal shall be rendered insensible to pain by a captive bolt, gunshot, electrical or chemical means, or any other means that is rapid and effective before being cut, shackled, hoisted, thrown, or cast, with the exception of poultry which may be shackled.

(2) The animal shall be handled, prepared for slaughter, and slaughtered in accordance with ritual requirements of the Jewish or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

This section does not apply to the slaughter of spent hens and small game birds, as defined by the department by regulation.

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.

CHAPTER 374

An act to amend Section 12002 of the Fish and Game Code, relating to birds.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.
(2) Subdivision (d) of Section 4004.
(3) Section 4600.
(4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
(5) A first violation of Section 8670.
(6) Section 10500.

(7) Section 3005.9.

(8) A violation of commission regulations that is discovered pursuant to Section 3005.91 or 3005.92.

(9) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail for not more than six months, or both that fine and that imprisonment.

(d) (1) A license or permit issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended. The license or permit shall not be reinstated or renewed, and no other license or permit shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454, 6650, or 6653.5.

CHAPTER 375

An act to amend Section 7507.4 of the Business and Professions Code, to amend Sections 1748.10, 1748.11, 1748.22, 1788, 1810.20, and 1810.21 of the Civil Code, to amend Section 22 of the Financial Code, to amend Sections 16265, 76219, and 76245 of the Government Code, to amend Sections 1067.05, 1067.055, and 11628 of the Insurance Code, to amend Section 1656.2 of the Vehicle Code, and to repeal Section 3 of Chapter 569 of the Statutes of 1974, relating to governmental regulation.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 7507.4 of the Business and Professions Code is amended to read:

7507.4. A licensed repossession agency or its registrants may make demand for payment in lieu of repossession, if the demand is made pursuant to an assignment for repossession.

In making demand upon a debtor for a money payment in lieu of repossession, the repossessor shall present the demand in compliance with the Rosenthal Fair Debt Collection Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), setting

forth in the demand only the amount that was specified by the creditor in the repossession referral and the fees that are properly chargeable. Itemized receipts shall be furnished the debtor at the time payment is received. Payments received shall forthwith be transmitted to the creditor, disclosing the full amount of money received from the debtor in addition to the contract payments.

SEC. 2. Section 1748.10 of the Civil Code is amended to read:

1748.10. This act shall be known and may be cited as the ''Areias Credit Card Full Disclosure Act Of 1986.''

SEC. 3. Section 1748.11 of the Civil Code is amended to read:

1748.11. (a) Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes which is mailed on or after October 1, 1987, to a consumer residing in this state by or on behalf of a creditor, whether or not the creditor is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that may be applied to the account, expressed as an annual percentage rate or rates. If the account is subject to a variable rate, the creditor may instead either disclose the rate as of a specific date and indicate that the rate may vary, or identify the index and any amount or percentage added to, or subtracted from, that index and used to determine the rate. For purposes of this section, that amount or percentage shall be referred to as the ''spread.''

(B) Any membership or participation fee that may be imposed for availability of a credit card account, expressed as an annualized amount.

(C) Any per transaction fee that may be imposed on purchases, expressed as an amount or as a percentage of the transaction, as applicable.

(D) If the creditor provides a period during which the consumer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the creditor or from merchants participating in the credit card plan, without the imposition of additional finance charges, the creditor shall either disclose the number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the consumer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the ''free period'' or ''free-ride period.'' If the creditor does not provide such a period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z.

(b) A creditor need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a creditor who elects not to use such a chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the creditor, or if the creditor presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS CREDIT CARD FULL DISCLOSURE ACT OF 1986: INTEREST RATES, FEES, AND FREE–RIDE PERIOD FOR PURCHASES UNDER THIS CREDIT CARD ACCOUNT

ANNUAL PER-CENTAGE RATE (1)	VARIABLE RATE INDEX AND SPREAD (2)	ANNUAL-IZED MEMBER-SHIP OR PARTICI-PATION FEE	TRANS-ACTION FEE	FREE–RIDE PERIOD (3)

(1) For fixed interest rates. If variable rate, creditor may elect to disclose a rate as of a specified date and indicate that the rate may vary.

(2) For variable interest rates. If fixed rate, creditor may eliminate the column, leave the column blank, or indicate ''No'' or ''None'' or ''Does not apply.''

(3) For example, ''30 days'' or ''Yes, if full payment is received by next billing date'' or ''Yes, if full new balance is paid by due date.''

(c) For purposes of this section, ''Regulation Z'' has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.). For the purposes of this section, ''open-end credit card account'' does not include an account accessed by a device described in paragraph (2) of subdivision (a) of Section 1747.02.

(d) Nothing in this section shall be deemed or construed to prohibit a creditor from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section.

(e) If a creditor is required under federal law to make any disclosure of the terms applicable to a credit card account in connection with

application forms or solicitations, the creditor shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the creditor complies with the federal disclosure requirement. For example, in lieu of complying with the requirements of paragraph (1) of subdivision (a), a creditor has the option of disclosing the specific terms required to be disclosed in an advertisement under Regulation Z, if the application forms or solicitations constitute advertisements in which specific terms must be disclosed under Regulation Z.

(f) If for any reason the requirements of this section do not apply equally to creditors located in this state and creditors not located in this state, then the requirements applicable to creditors located in this state shall automatically be reduced to the extent necessary to establish equal requirements for both categories of creditors, until it is otherwise determined by a court of law in a proceeding to which the creditor located in this state is a party.

(g) All application forms for an open-end credit card account distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias Credit Card Full Disclosure Act of 1986, check here and return to the address on this application.''

A box shall be printed in or next to this statement for placement of such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

(h) This title does not apply to any application form or written advertisement or an open-end credit card account where the credit to be extended will be secured by a lien on real or personal property or both real and personal property.

(i) This title does not apply to any person who is subject to Article 10.5 (commencing with Sec. 1810.20) of Chapter 1 of Title 2.

SEC. 4. Section 1748.22 of the Civil Code is amended to read:

1748.22. (a) On and after October 1, 1987, issuers of charge cards shall clearly and conspicuously disclose in any charge card application form or preapproved written solicitation for a charge card mailed to a consumer who resides in this state to apply for a charge card, whether or not the charge card issuer is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the charge card issuer, the following information:

(1) Any fee or charge assessed for or which may be assessed for the issuance or renewal of the charge card, expressed as an annualized

amount. The fee or charge required to be disclosed pursuant to this paragraph shall be denominated as an ''annual fee.''

(2) The charge card does not permit the charge cardholder to defer payment of charges incurred by the use of the charge card upon receipt of a periodic statement of charges from the charge card issuer.

(3) Any fee that may be assessed for an extension of credit to a charge cardholder where the extension of credit is made by the charge card issuer, and is not a credit sale and where the charge cardholder receives the extension of credit in the form of cash or where the charge cardholder obtains the extension of credit through the use of a preprinted check, draft, or similar credit device provided by the charge card issuer to obtain an extension of credit. This fee shall be denominated as a ''cash advance fee'' in the disclosure required by this paragraph.

(b) A charge card issuer shall be conclusively presumed to have complied with the disclosure requirements of subdivision (a) if the table set out in subdivision (b) of Section 1748.11 is completed with the applicable terms offered by the charge card issuer in a clear and conspicuous manner and the completed table in subdivision (b) of Section 1748.11 is then provided to the person invited to apply for the charge card as a part of or in material which accompanies the charge card application or written advertisement which invites a person to apply for a charge card.

The charge card issuer shall include as part of table set out in subdivision (b) of Section 1748.11 the following sentences in the boxes or in a footnote outside of the boxes that relate to the interest rate disclosure: ''This is a charge card which does not permit the charge cardholder to pay for purchases made using this charge card in installments. All charges made by a person to whom the charge card is issued are due and payable upon the receipt of a periodic statement of charges by the charge cardholder.''

The inclusion or exclusion of an expiration date with table set out in subdivision (b) of Section 1748.11 or the use of footnotes in the boxes of the table to set out the information required to be disclosed by this section outside of the boxes of the table set out in subdivision (b) of Section 1748.11 shall not affect the conclusive presumption of compliance pursuant to this subdivision. If a charge card issuer does not offer or require one of the selected attributes of credit cards in the table set out in subdivision (b) of Section 1748.11 the charge card issuer shall employ the phrase in the appropriate box or in the appropriate footnote ''Not offered'' or ''Not required'' or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a). If one of the selected attributes of charge cards required to be disclosed pursuant to subdivision (a) is not applicable to the charge card issuer, the charge card issuer may employ

in the appropriate box or in the appropriate footnote outside of the box in the table set out in subdivision (b) of Section 1748.11 the phrase ''Not applicable'' or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a).

(c) Nothing in this section shall be deemed or construed to prohibit a charge card issuer from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section by subdivision (a) or in connection with the disclosure provided in subdivision (b), in conjunction with the disclosures required by this section.

(d) If the charge card issuer offers to the charge cardholder any program or service under which the charge cardholder may elect to access open-end credit, the charge card issuer shall provide to the charge cardholder, before the charge cardholder has the right to access that credit, the initial disclosure statement required by Regulation Z, as defined in subdivision (c) of Section 1748.10.

(e) All charge card application forms distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias Charge Card Full Disclosure Act of 1986, check here and return to the address on this application.''

A box shall be printed in or next to this statement for placing such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

SEC. 5. Section 1788 of the Civil Code is amended to read:

1788. This title may be cited as the Rosenthal Fair Debt Collection Practices Act.

SEC. 6. Section 1810.20 of the Civil Code is amended to read:

1810.20. This article shall be known and may be cited as the ''Areias Retail Installment Account Full Disclosure Act of 1986.''

SEC. 7. Section 1810.21 of the Civil Code is amended to read:

1810.21. (a) Any application form or preapproved written solicitation for a credit card issued in connection with a retail installment account which is mailed on or after October 1, 1987, to a retail buyer residing in this state by or on behalf of a retail seller, whether or not the retail seller is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the retail seller, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that will be used to determine the finance charge imposed on the balance due under the terms of a retail installment account, expressed as an annual percentage rate or rates.

(B) Any membership or participation fee that will be imposed for availability of a retail installment account in connection with which a credit card is issued expressed as an annualized amount.

(C) If the retail seller provides a period during which the retail buyer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the retail seller without the imposition of additional finance charges, the retail seller shall either disclose the minimum number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the retail buyer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the ''free period'' or ''free-ride period.'' If the retail seller does not provide such a period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z (12 C.F.R. 226.6).

(b) In the event that an unsolicited application form is mailed or otherwise delivered to retail buyers in more than one state, the requirements of subdivision (a) shall be satisfied if on the application form or the soliciting material there is a notice that credit terms may vary from state to state and which provides either the disclosures required by subdivision (a) or an address or phone number for the customer to use to obtain the disclosure. The notice shall be in boldface type no smaller than the largest type used in the narrative portion, excluding headlines, of the material soliciting the application. Any person responding to the notice shall be given the disclosures required by subdivision (a).

(c) A retail seller need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a retail seller who elects not to use the chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the retail seller, or if the retail seller presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS RETAIL INSTALLMENT ACCOUNT FULL DISCLOSURE ACT OF 1986:

CREDIT CARD TERMS VARY AMONG RETAIL SELLERS—SELECTED TERMS FOR PURCHASES UNDER THIS RETAIL INSTALLMENT ACCOUNT ARE SET OUT BELOW

PERIODIC RATES (as APRs)	ANNUAL FEES	FREE–RIDE PERIOD

(d) For purpose of this section, ''Regulation Z'' has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.).

(e) Nothing in this section shall be deemed or construed to prohibit a retail seller from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section. Notwithstanding subdivision (g) of Section 1748.11, a retail seller that complies with the requirements of Section 1748.11 shall be deemed to have complied with the requirements of this section.

(f) If a retail seller is required under federal law to make any disclosure of the terms applicable to a retail installment account in connection with application forms or solicitations, the retail seller shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the retail seller complies with the federal disclosure requirement.

(g) If the disclosure required by this section does not otherwise appear on an application form or an accompanying retail installment agreement distributed in this state on or after October 1, 1987, other than by mail,

the application form shall include a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this retail installment account, pursuant to the Areias Retail Installment Account Full Disclosure Act of 1986, check here and return to the address on this form.''

A box shall be printed in or next to this statement for placing such a checkmark.

(h) This article does not apply to (1) any application form or preapproved written solicitation for a retail installment account credit card where the credit to be extended will be secured by a lien on real or personal property, or both real and personal property, (2) any application form or written solicitation which invites a person or persons to apply for a retail installment account credit card and which is included as part of a catalog which is sent to one or more persons by a creditor in order to facilitate a credit sale of goods offered in the catalog, (3) any advertisement which does not invite, directly or indirectly, an application for a retail installment account credit card, and (4) any application form or written advertisement included in a magazine, newspaper, or other publication distributed in more than one state by someone other than the creditor.

SEC. 8. Section 22 of the Financial Code is amended to read:

22. Notwithstanding any other provision of this code, Chapter 10 (commencing with Section 10000) of Division 2 shall be known and may be cited as the Vuich-Calderon Financial Institutions Act of 1986.

SEC. 9. Section 16265 of the Government Code is amended to read:

16265. This chapter shall be known and may be cited as the ''Bergeson-Costa-Nielsen County Revenue Stabilization Act of 1987.''

SEC. 10. Section 76219 of the Government Code is amended to read:

76219. (a) The Courthouse Construction Fund established in Los Angeles County pursuant to Section 76100 shall be known as the Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed and owed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (b) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District.

(d) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the West Los Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena Judicial District, within the Southeast Municipal Court District, within the South Bay Judicial District, within the Santa Monica Judicial District, within the Antelope Valley Judicial District, or within the Long Beach Judicial District until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, and the South Bay Judicial District, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction of new facilities for the superior and municipal courts in the Santa Monica Judicial District, the Antelope Valley Judicial District, and the Long Beach Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) The moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirement of subdivision (b) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (d).

(g) Deposits into the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is selected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

SEC. 11. Section 76245 of the Government Code is amended to read:

76245. (a) The fund established in Shasta County pursuant to Section 76200 shall be known as the Statham Courthouse Construction Fund.

(b) The fund established in Shasta County pursuant to Section 76101 shall be known as the Statham Criminal Justice Facilities Construction Fund.

SEC. 12. Section 1067.05 of the Insurance Code is amended to read:

1067.05. (a) A nonprofit legal entity to be known as the California Life and Health Insurance Guarantee Association shall exist as a result of the merger of the Seastrand Health Insurance Guaranty Association with and into the California Life Insurance Guaranty Association pursuant to Section 1067.055. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under

the plan of operation established and approved under Section 1067.09 and shall exercise its powers through a board of directors established under Section 1067.06. For purposes of administration and assessment, the association shall maintain the following three accounts:

(1) The life insurance account.

(2) The annuity account.

(3) The health insurance account.

(b) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened to the public upon majority vote of the board of directors of the association.

SEC. 13. Section 1067.055 of the Insurance Code is amended to read:

1067.055. In order to provide for the merger of the Seastrand Health Insurance Guaranty Association with and into the California Life Insurance Guaranty Association, the following shall apply:

(a) Notwithstanding the repeal of the California Life Insurance Guaranty Association Act and the Seastrand Health Insurance Guaranty Association Act, the Seastrand Health Insurance Guaranty Association shall, effective immediately prior to that repeal, be merged with and into the California Life Insurance Guaranty Association, which shall then be known as the California Life and Health Insurance Guarantee Association.

(b) Notwithstanding the repeal of the California Life Insurance Guaranty Association Act and the Seastrand Health Insurance Guaranty Association Act, but subject to the last sentence of this subdivision, all of the following shall apply:

(1) The association shall succeed, without other transfer, to all the rights, powers, privileges, assets, and property of each of the California Life Insurance Guaranty Association and the Seastrand Health Insurance Guaranty Association, which for the purposes of this section shall be referred collectively as the merging associations. The association shall be subject to all debts, obligations, and liabilities of each merging association in the same manner as if the association had itself incurred them, in each case under the law in effect prior to the effective date of this article, as those rights, powers, privileges, obligations, debts, and liabilities may be amended and restated in this article, including, without limitation, the extension of coverage with respect to unallocated contracts as provided in subparagraph (D) of paragraph (2) of subdivision (b) of Section 1067.02, and in each case with respect to member insurers that became impaired insurers or insolvent insurers prior to the effective date of this article and after October 1, 1990. Without limiting the generality of the foregoing, the association shall

succeed to (A) all collected, uncollected, or unbilled assessments of the merging associations, (B) all cash, bank accounts, and accrued interest of the merging associations, (C) all rights, powers, privileges, and obligations of the merging associations under any contracts or commitments of the merging association, (D) all subrogations, assignments, and creditor rights and interests of the merging associations, and (E) all rights, powers, privileges, and obligations of each of the trusts established on December 31, 1993, by each of the merging associations as settlor.

(2) All rights of creditors and all liens upon the property of each of the merging associations shall be preserved unimpaired, provided that the liens upon property of a merging association shall be limited to the property affected thereby immediately prior to the effective date of this article.

(3) Any action or proceeding pending by or against a merging association may be prosecuted to judgment, which shall bind the association, or the association may be proceeded against or be substituted in its place.

Notwithstanding the other provisions of this subdivision, all debts, obligations, and liabilities of a merging association that were to be paid out of a specified account of the merging association shall be paid solely out of the assets of that merging association that were available to that merging association to pay those debts and liabilities, including, without limitation, collected, uncollected, or unbilled assessments, and any and all subrogation, assignment, and creditor rights, or out of assets in the same type of account of the association.

(c) Notwithstanding any other provision to the contrary in this article:

(1) It is the intent of this section to preserve rights, powers, privileges, assets, property, debts, obligations, and liabilities of each of the merging associations, and not to provide contractholders and policyholders, or their respective payees, beneficiaries, or assignees, with duplicative rights, powers, privileges, assets, or property.

(2) Accordingly, no contractholder and policyholder, and no contractholder's or policyholder's payee, beneficiary, or assignee, shall be entitled to (A) a recovery from the association that is duplicative of a previous recovery from either of the merging associations, or the trust established by either merging association, or (B) a recovery from the association on account of a claim against either of the merging associations where the association is liable with respect to a claim under the same policy or contract under this article.

SEC. 14. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to

issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

As used in this section ''geographic area'' means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under $1^{1}/_{2}$-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted annually to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. That report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination. However, the data shall be released in aggregate form by ZIP Code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

All information reported to the department pursuant to this subdivision shall be confidential.

As used in this section, (1) ''language'' means the inability to speak, read, write, or comprehend the English language, (2) ''dependents'' shall include, but not be limited to, issue regardless of generation, and (3) ''spouse'' shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

Nothing in this section shall prohibit an insurer from:

(1) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(2) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if: (A) the majority of his or her employment during the previous year was in the occupation, or (B) the majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation, or (C) the person is a member in good standing of a union which is an authorized collective bargaining agent for persons engaged in the occupation.

Nothing in this section shall be construed to include in the definition of ''occupation'' any status or activity which does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel such insurance for the reason that it is a commercial vehicle or based

upon the consideration of a vehicle's size, weight, design, or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(f) (1) Except as provided in Article 4 (commencing with Section 11620), nothing in this section or in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 or in any other provision of this code, shall prohibit an insurer from limiting the issuance or renewal of insurance as defined in subdivision (a) of Section 660 to persons who engage in, or have formerly engaged in, governmental or military service or segments of categories thereof, and their spouses, dependents, and former dependents or spouses.

(2) The term ''military service'' includes, but is not limited to, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) This section shall be known and may be cited as the ''Rosenthal Auto Insurance Nondiscrimination Law.''

SEC. 15. Section 1656.2 of the Vehicle Code is amended to read:

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Section 16000, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain, but is not limited to, the following wording:

''IMPORTANT FACTS ABOUT ENFORCEMENT OF CALIFORNIA'S COMPULSORY FINANCIAL RESPONSIBILITY LAW

The McAlister Financial Responsibility Act requires every driver to maintain proof of valid automobile liability insurance, bond, cash deposit, or self-insurance which has been approved by the Department of Motor Vehicles.

You must provide proof of financial responsibility after you are cited by a peace officer for a traffic violation. The act requires that you provide the officer with the name of your insurer and the policy identification number. Your insurer will provide written evidence of

this number. The back of your vehicle registration form contains a space for writing this information. Failure to prove your financial responsibility can result in fines of up to two hundred forty dollars ($240) and loss of your driver's license. Falsification of proof can result in fines of up to five hundred dollars ($500) or 30 days in jail, or both.

Under existing law, if you are involved in an accident that results in damages over five hundred dollars ($500) or in any injury or fatality, you must file a report of the accident with the Department of Motor Vehicles within 10 days of the accident. If you fail to file a report or fail to provide evidence of financial responsibility on the report, your driving privilege will be suspended for one year. Your suspension notice will notify you of the department's action and of your right to a hearing. Your suspension notice will also inform you that if you request a hearing, it must be conducted within 30 days of your written request, and that a decision is to be rendered within 15 days of the conclusion of the hearing.''

SEC. 16. Section 3 of Chapter 569 of the Statutes of 1974 is repealed.

CHAPTER 376

An act relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Notwithstanding any law to the contrary, the sale of certain real property, commonly known as 520 Capitol Mall, Sacramento, California, by the Sacramento City Unified School District shall be subject solely to the provisions set forth in this act and shall not be subject to the provisions of Article 2 (commencing with Section 17230) of Chapter 1 of Part 10.5 of the Education Code, Chapter 4 (commencing with Section 17385) of Part 10.5 of the Education Code, Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, or Article 7 (commencing with Section 65400) of Chapter 3 of Division 1 of Title 7 of the Government Code.

SEC. 2. The sale of real property, commonly known as 520 Capitol Mall, Sacramento, California, shall be subject to all of the following procedures:

(a) The Sacramento City Unified School District has solicited offerings in accordance with all of the following:

(1) The notice of the property being offered was published in a newspaper of general circulation published in the county in which the district is situated.

(2) A comprehensive offering memorandum and marketing analysis setting forth terms for offers was sent to all respondents as well as targeted potential buyers.

(3) On May 19, 2000, offers were received.

(4) On May 19, 2000, the bids were opened and a highest bidder meeting the terms of the offer was designated.

(b) Before ordering the sale of 520 Capitol Mall, Sacramento, California property to the person or entity designated as the highest bidder by subdivision (a), the governing board of the Sacramento City Unified School District, in a regular open meeting, by a two-thirds vote of its members, shall adopt a resolution declaring its intention to sell 520 Capitol Mall, Sacramento, California. The resolution shall describe the property proposed to be sold in such a manner as to identify it, the activities and procedures to solicit offers set forth in subdivision (a), and shall specify the minimum price and the terms upon which it shall be sold and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the proceeds. The resolution shall fix a time and place for the receipt of any additional written offers and shall set a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which the superintendent of the Sacramento City Unified School District shall make all of the offers public and shall recommend to the governing board acceptance of the highest offer.

(c) The Sacramento City Unified School District shall comply with Section 17469 of the Education Code for public notice and posting of the adoption of the resolution.

(d) The governing board of the Sacramento City Unified School District at the time and place designated in the resolution described in subdivision (b) shall accept the highest offer as recommended by the superintendent or reject all offers. The final acceptance of the highest offer or rejection of all of the offers may be made at any adjourned session of the same meeting within the 10 days next following.

SEC. 3. The Legislature finds and declares that because of a unique situation existing in the Sacramento Area regarding the sale of real property, commonly known as 520 Capitol Mall, Sacramento, California, by the Sacramento City Unified School District, a general

law, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable.

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 avoid an extended transition period into new facilities that would impair the Sacramento City Unified School District's ability to safely operate its schools, it is necessary that this act take effect immediately.

CHAPTER 377

An act to add Section 1986.1 to the Code of Civil Procedure, relating to evidence.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 1986.1 is added to the Code of Civil Procedure, to read:

1986.1. (a) No testimony or other evidence given by a journalist under subpoena in a civil or criminal proceeding may be construed as a waiver of the immunity rights provided by subdivision (b) of Section 2 of Article I of the California Constitution.

(b) Because important constitutional rights of a third-party witness are adjudicated when rights under subdivision (b) of Section 2 of Article I of the California Constitution are asserted, except in exigent circumstances a journalist who is subpoenaed in any civil or criminal proceeding shall be given at least five days' notice by the party issuing the subpoena that his or her appearance will be required.

(c) If a trial court holds a journalist in contempt of court in a criminal proceeding notwithstanding subdivision (b) of Section 2 of Article I of the California Constitution, the court shall set forth findings, either in writing or on the record, stating at a minimum, why the information will be of material assistance to the party seeking the evidence, and why alternate sources of the information are not sufficient to satisfy the defendant's right to a fair trial under the Sixth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution.

(d) As used in this section, ''journalist'' means the persons specified in subdivision (b) of Section 2 of Article I of the California Constitution.

CHAPTER 378

An act relating to the Rim of the Valley Trail.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

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

(a) Marjorie Feinberg originated the concept of the 50-mile Rim of the Valley Trail as a student, developing the idea through a master's degree thesis in which she proposed a specific route.

(b) Over the next 25 years, she worked to guarantee acquisition of the land and development of the trail. She traveled to every meeting of the Santa Monica Mountains Conservancy as well as any other group in which the trail would be discussed, to be available for comment and information. She organized support groups for the trail in every portion of the San Fernando Valley and surrounding towns.

(c) Marjorie Feinberg has received numerous commendations for her work on the Rim of the Valley Trail, including a Certificate of Honor from Los Angeles Beautiful, commendations from the City of Los Angeles and Mayor Bradley, a Certificate of Recognition from the Assembly of the State of California, and a posthumous Outstanding Public Service Award from California State University, Northridge.

(d) Marjorie Feinberg died on February 2, 1999. Her one wish during her illness was to live to see the completion of the Rim of the Valley Trail.

(e) It is an appropriate memorial to name the trail the ''Marge Feinberg Rim of the Valley Trail'' to acknowledge the fact that, without her tireless efforts, the Rim of the Valley Trail would never have been completed.

SEC. 1.5. The Rim of the Valley Trail shall be known as the Marge Feinberg Rim of the Valley Trail. The Santa Monica Mountains Conservancy is requested to determine the cost of erecting appropriate plaques and markers showing the special designation, and upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers.

CHAPTER 379

An act to amend Sections 31470.11 and 31470.12 of the Government Code, relating to welfare fraud investigators and administrators.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 31470.11 of the Government Code is amended to read:

31470.11. Notwithstanding Section 31470.2, all welfare fraud investigators and administrators in counties of the 16th class, as described by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, shall be ineligible for safety membership, unless and until the board of supervisors shall elect, by resolution adopted by a majority vote, to make those investigators and administrators eligible.

SEC. 3. Section 31470.12 of the Government Code is amended to read:

31470.12. Child support investigators and administrators in counties of the 16th class, as described by Section 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, are eligible.

This section shall not be operative in any county until such time as the board of supervisors shall elect, by resolution adopted by a majority vote, to make this section applicable in the county.

CHAPTER 380

An act to amend Sections 719 and 725 of, and to add Sections 702.5 and 735.2 to, the Harbors and Navigation Code, relating to yacht and ship brokers.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 702.5 is added to the Harbors and Navigation Code, to read:

702.5. Any declaration, license, or other record electronically generated or transmitted pursuant to this article shall meet the requirements of a ‘‘record’’ under Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

SEC. 2. Section 719 of the Harbors and Navigation Code is amended to read:

719. (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Has not been cited for a violation of this article within the preceding two years.

(3) Possesses a working knowledge and understanding of the principles of the yacht brokerage business and profession.

(4) Either has been employed within five years preceding his or her application as a California licensed salesperson for at least one year, has been licensed as a California broker within five years preceding his or her application, has owned and operated a marine business selling new or used yachts for a minimum of three continuous years, or has been employed as a broker or a yacht salesperson in another state where that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state or as an employee of a marine business selling new or used yachts in California shall be in the form of all of the following:

(A) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding the filing of the application in California.

(B) If bonded, a statement issued by the applicant's bonding company that no action has been taken against the bond for fraud or gross misrepresentation for the period for which the bond has been issued.

(C) A copy of all business permits, issued by any state, county, or city agency, which, if applicable, includes the fictitious business name (''dba'' or ''doing business as'') under which the applicant conducted a yacht or ship brokerage business or a marine business selling new or used yachts in California for the three-year period preceding application for a California broker's license.

(D) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license issued by that state.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

SEC. 3. Section 725 of the Harbors and Navigation Code is amended to read:

725. Temporary licenses may be issued to salespersons under the following conditions:

(a) The licenses shall be issued for a period not to exceed 60 days and only one license shall be issued to each applicant.

(b) An application shall be filed for a temporary license and for a permanent license and at the same time the applicant shall pay all the prescribed fees.

(c) The application shall be in the form and upon the conditions required by the department as provided in this article with respect to a permanent salesperson's license.

(d) On or before the expiration date of the temporary license, the licensee shall take a written examination for a permanent license. If, without a valid excuse, the licensee fails to appear for the examination at the time prescribed, the examination fee shall be forfeited. In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of fees, shall schedule a reexamination.

(e) The applicant shall be at least 18 years of age.

SEC. 4. Section 735.2 is added to the Harbors and Navigation Code, to read:

735.2. The department shall accept any electronic record or electronic or digital signature created, generated, sent, communicated, received, or stored by electronic means on or after January 1, 2000. A ''digital signature'' means a signature that complies with the regulations adopted by the Secretary of State relating to digital signatures.

CHAPTER 381

An act to amend Section 25620 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 25620 of the Business and Professions Code is amended to read:

25620. (a) Any person possessing any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, in any city, county, or city and county owned park or other city, county, or city and county owned public place, or any recreation and park district, or any

regional park or open-space district shall be guilty of an infraction if the city, county, or city and county has enacted an ordinance that prohibits the possession of those containers in those areas or the consumption of alcoholic beverages in those areas.

(b) This section does not apply where the possession is within premises located in a park or other public place for which a license has been issued pursuant to this division.

(c) This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related activity.

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 382

An act to add and repeal Section 4519.7 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 4519.7 is added to the Welfare and Institutions Code, to read:

4519.7. (a) Any regional center employee shall not be liable for civil damages on account of an injury or death resulting from an employee's act or omission where the act or omission was the result of the exercise of the discretion vested in him or her, in good faith, in carrying out the intent of this division, except for acts or omissions of gross negligence or acts or omissions giving rise to a claim under Section 3294 of the Civil Code. This section shall not be applied to provide immunity from liability for any criminal act.

(b) This section is not intended to change, alter, or affect the liability of regional centers, including, but not limited to, the vicarious liability of a regional center due to a negligent employee.

(c) A regional center employee, when participating in filing a complaint or providing information as required by law regarding a consumer's health, safety, or well-being, or participating in a judicial proceeding resulting therefrom, shall be presumed to be acting in good faith, and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed. The presumption established by this subdivision is a presumption affecting the burden of producing evidence.

(d) This section shall apply only to acts or omissions that occur on or after January 1, 2001.

(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.

CHAPTER 383

An act to add Article 5.7 (commencing with Section 66057) to Chapter 2 of Part 40 of the Education Code, relating to public postsecondary education.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Article 5.7 (commencing with Section 66057) is added to Chapter 2 of Part 40 of the Education Code, to read:

Article 5.7. Year-Round Academic Programs

66057. (a) The Legislature finds and declares all of the following:

(1) The future economic vitality of California will depend on the state's ability to educate its citizens and to help them develop the work and social skills needed to compete with workers of other nations and states in our global economy.

(2) Ensuring that California's colleges and universities can accommodate a tidal wave of new students, as well as enable those from diverse backgrounds to achieve success in their college careers, will require a variety of strategies.

(3) The Legislative Analyst's Office (LAO) has reported that most campuses of the University of California, the California State

University, and the California Community Colleges will soon exceed their current capacities.

(4) The LAO has identified year-round operation as a cost-efficient strategy to address future enrollment growth, by avoiding capital expenditure for instructional space, such as classrooms, class laboratories, study space in libraries, and other selected student support service facilities.

(5) Year-round operation also increases student access to high demand campuses, and allows students to accelerate their progress to degrees.

(b) Summer session fees at all campuses of the University of California and the California State University shall not exceed the fees charged per credit unit for any other academic term, if the state provides funding to offset any revenue losses that may occur due to the difference between the state university fee and fees charged for self-supporting academic programs.

(c) In recognition of the differing circumstances on the various campuses throughout the state, the University of California and the California State University shall retain the flexibility to implement year-round operation differently on individual campuses.

CHAPTER 384

An act to add Section 23399.4 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 23399.4 is added to the Business and Professions Code, to read:

23399.4. (a) A licensee under a winegrower's license may apply to the department for a certified farmers' market sales permit. A certified farmers' market sales permit shall authorize the licensee, a member of the licensee's family, or an employee of the licensee to sell wine produced and bottled by the winegrower entirely from grapes grown by the winegrower at a certified farmers' market at any place in the state approved by the department. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market location. A winegrower may hold more than one certified farmers' market sales permit. The department

shall notify the city, county, or city and county and applicable law enforcement agency where the certified farmers' market is to be held of the issuance of the permit. A ''certified farmers' market'' means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

(b) The licensed winegrower eligible for the certified farmers' market sales permit shall not sell more than 5,000 gallons of wine annually pursuant to all certified farmers' market sales permits held by any single winegrower. The licensed winegrower shall report total certified farmers' market wine sales to the department on an annual basis. The report may be included within the annual report of production submitted to the department, or pursuant to any regulation as may be prescribed by the department.

(c) The fee for any permit issued pursuant to this section shall be forty dollars ($40).

(d) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

CHAPTER 385

An act to amend Sections 1525, 1528, 1580, 2852, 8610.14, 10503, and 10711 of, and to add Article 5 (commencing with Section 1590) to Chapter 5 of Division 2 of, the Fish and Game Code, and to amend Sections 5001.65, 5003.1, 5019.50, 5019.53, 5019.56, 5019.59, 5019.62, 5019.65, 5019.71, and 5019.74 of, to add Sections 538, 5001.4, and 5019.80 to, and to add Chapter 7 (commencing with Section 36600) to Division 27 of, the Public Resources Code, relating to marine resources, and making an appropriation therefor.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 1525 of the Fish and Game Code is amended to read:

1525. For the purposes of propagating, feeding and protecting birds, mammals, and fish, and establishing wildlife management areas or public shooting grounds the department, with the approval of the commission, may do all of the following:

(a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop, maintain, use and administer, land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms, wildlife management areas, or public shooting grounds.

SEC. 2. Section 1528 of the Fish and Game Code is amended to read:

1528. Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department. Multiple recreational use of wildlife management areas is desirable and that use shall be encouraged by the commission. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided. Except as provided in Section 1765, and to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use privileges. However, tours by organized youth and school groups are exempt from the payment of those fees. Only persons holding valid hunting licenses may apply for or obtain shooting permits for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas.

SEC. 3. Section 1580 of the Fish and Game Code is amended to read:

1580. The Legislature hereby declares that the policy of the state is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools for the future use of mankind through the establishment of ecological reserves. For the purpose of establishing those ecological reserves, the department, with the approval of the commission, may obtain, accept on behalf of the state, acquire, or control, by purchase, lease, easement, gift, rental, memorandum of understanding, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for the purpose of establishing ecological reserves. Any property obtained, accepted, acquired, or controlled by the department pursuant to this article may be designated by the commission as an ecological reserve. The commission may adopt regulations for the occupation, utilization, operation, protection, enhancement, maintenance, and administration of ecological reserves.

The ecological reserves shall not be classified as wildlife management areas pursuant to Section 1504 and shall be exempt from Section 1504.

SEC. 4. Article 5 (commencing with Section 1590) is added to Chapter 5 of Division 2 of the Fish and Game Code, to read:

Article 5. Classification of Marine Managed Areas with Harvest Restrictions

1590. The commission may designate, delete, or modify state marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves , and state marine (estuarine) conservation areas, as delineated in subdivision (a) of Section 36725 of the Public Resources Code. The commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or deleting marine (estuarine) reserves and marine (estuarine) conservation areas designated by the State Park and Recreation Commission. The commission shall not delete or modify state marine (estuarine) recreational management areas designated by the State Park and Recreation Commission.

1591. (a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27 of the Public Resources Code) establishes a uniform classification system for state marine managed areas and is incorporated herein by reference. Any proposals for marine protected areas made after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to Section 36750 of the Public Resources Code, all marine protected areas in existence and not reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee established pursuant to Section 36800 of the Public Resources Code into one of the following classifications:

(1) State marine (estuarine) reserve.

(2) State marine (estuarine) park.

(3) State marine (estuarine) conservation area.

(b) State marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves, and state marine (estuarine) conservation areas shall be designated, deleted, or modified by the commission pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

SEC. 5. Section 2852 of the Fish and Game Code is amended to read:

2852. The following definitions govern the construction of this chapter:

(a) ''Adaptive management,'' with regard to marine protected areas, means a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that, even if they fail, they will provide useful information for future actions, and monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood.

(b) ''Biogeographical regions'' refers to the following oceanic or near shore areas, seaward from the mean high tide line or the mouth of coastal rivers, with distinctive biological characteristics, unless the master plan team establishes an alternative set of boundaries:

(1) The area extending south from Point Conception.

(2) The area between Point Conception and Point Arena.

(3) The area extending north from Point Arena.

(c) ''Marine protected area'' (MPA) means a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat. An MPA includes marine life reserves and other areas that allow for specified commercial and recreational activities, including fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of this chapter. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs), which are broader groups of named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities.

(d) ''Marine life reserve,'' for the purposes of this chapter, means a marine protected area in which all extractive activities, including the taking of marine species, and, at the discretion of the commission and within the authority of the commission, other activities that upset the natural ecological functions of the area, are prohibited. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state.

SEC. 6. Section 8610.14 of the Fish and Game Code is amended to read:

8610.14. (a) Prior to January 1, 1994, the commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources, including, but not limited to, scientific research as it relates to sportfishing and commercial fishing.

Recreational uses, including, but not limited to, hiking, walking, viewing, swimming, diving, surfing, and transient boating are not in conflict with this section.

(b) Prior to establishing the four ecological reserves, the commission shall conduct a public hearing at each of the recommended sites or at the nearest practicable location.

(c) On and after January 1, 2002, the four ecological reserves established pursuant to subdivision (a) shall be called state marine reserves, unless otherwise reclassified pursuant to Section 2855, and shall become part of the state system of marine managed areas.

SEC. 7. Section 10503 of the Fish and Game Code is amended to read:

10503. For the purposes of propagating, feeding, and protecting birds, mammals, fish, and amphibia the commission may do all of the following:

(a) Accept, on behalf of the state, donations of any interest in lands within any refuge.

(b) Accept, on behalf of the state, from any person owning and in possession of patented lands, except lands that are covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, and amphibia on the patented lands.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, and amphibia, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

SEC. 8. Section 10711 of the Fish and Game Code is amended to read:

10711. The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any

time. The commission may from time to time vary the location of the closed and open portions of those beaches.

Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the commission shall hold in the county to be affected a public hearing, notice of which has been published at least once in a newspaper of general circulation, printed, and published in that county. The commission may determine which newspaper will be most likely to give notice to the inhabitants of the county, and its determination shall be final and conclusive. The commission may authorize any employee of the department in its place to hold the hearings, in which event a copy of a transcript of all proceedings taken or had at the hearing shall be furnished to each commissioner at least five days before any regulation is made by the commission.

SEC. 9. Section 538 is added to the Public Resources Code, to read:

538. The commission may designate, delete, or modify state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas, as delineated in subdivision (b) of Section 36725. The commission may not designate, delete, or modify a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

SEC. 10. Section 5001.4 is added to the Public Resources Code, to read:

5001.4. The department may manage state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, state marine (estuarine) recreational management areas and, if requested by the State Water Resources Control Board, state water quality protection areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

SEC. 11. Section 5001.65 of the Public Resources Code is amended to read:

5001.65. Commercial exploitation of resources in units of the state park system is prohibited. However, slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County is permissible in accordance with Section 6854. Commercial fishing is permissible, unless otherwise restricted, in state marine (estuarine) conservation areas, state marine (estuarine) cultural

preservation areas, and state marine (estuarine) recreational management areas.

Qualified institutions and individuals shall be encouraged to conduct nondestructive forms of scientific investigation within state park system units, upon receiving prior approval of the director.

The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas is permitted upon receiving prior approval of the director.

SEC. 12. Section 5003.1 of the Public Resources Code is amended to read:

5003.1. The Legislature finds and declares that it is in the public interest to permit hunting, fishing, swimming, trails, camping, campsites, and rental vacation cabins in certain state recreation areas, or portions thereof, when it is found by the State Park and Recreation Commission that such multiple use of state recreation areas would not threaten the safety and welfare of other state recreation area users. Hunting shall not be permitted in any unit now in the state park system and officially opened to the public on or before June 1, 1961, or in any unit hereafter acquired and designated by the commission as a state park, state marine (estuarine) reserve, state marine (estuarine) park, state reserve, state marine (estuarine) conservation area, or state marine (estuarine) cultural preservation area, and may only be permitted in new recreational areas and state marine (estuarine) recreational management areas that are developed for that use.

Whenever hunting or fishing is permitted in a state recreation area or state marine (estuarine) recreational management area, and whenever fishing is permitted in a state park, state marine (estuarine) park, state marine (estuarine) cultural preservation area, or state marine (estuarine) conservation area, the Department of Fish and Game shall enforce hunting and fishing laws and regulations as it does elsewhere in the state.

SEC. 13. Section 5019.50 of the Public Resources Code is amended to read:

5019.50. All units that are or shall become a part of the state park system, except those units or parts of units designated by the Legislature as wilderness areas pursuant to Chapter 1.3 (commencing with Section 5093.30), or where subject to any other provision of law, including Section 5019.80 and Article 1 (commencing with Section 36600) of Chapter 7 of Division 27, shall be classified by the State Park and Recreation Commission into one of the categories specified in this article. Classification of state marine (estuarine) reserves, state marine (estuarine) parks, and state marine (estuarine) conservation areas, requires the concurrence of the Fish and Game Commission for restrictions to be placed upon the use of living marine resources.

SEC. 14. Section 5019.53 of the Public Resources Code is amended to read:

5019.53. State parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other similar values. The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California, such as the Sierra Nevada, northeast volcanic, great valley, coastal strip, Klamath-Siskiyou Mountains, southwest mountains and valleys, redwoods, foothills and low coastal mountains, and desert and desert mountains.

Each state park shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established.

Improvements undertaken within state parks shall be for the purpose of making the areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations. Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picnicking, sightseeing, nature study, hiking, and horseback riding, so long as those improvements involve no major modification of lands, forests, or waters. Improvements that do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks.

State parks may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state.

SEC. 15. Section 5019.56 of the Public Resources Code is amended to read:

5019.56. State recreation units consist of areas selected, developed, and operated to provide outdoor recreational opportunities. The units shall be designated by the commission by naming, in accordance with Article 1 (commencing with Section 5001) and this article relating to classification.

In the planning of improvements to be undertaken within state recreation units, consideration shall be given to compatibility of design with the surrounding scenic and environmental characteristics.

State recreation units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state and shall be further classified as one of the following types:

(a) State recreation areas, consisting of areas selected and developed to provide multiple recreational opportunities to meet other than purely local needs. The areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water. Areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, or state marine (estuarine) cultural preservation areas.

Improvements may be undertaken to provide for recreational activities, including, but not limited to, camping, picnicking, swimming, hiking, bicycling, horseback riding, boating, waterskiing, diving, winter sports, fishing, and hunting.

Improvements to provide for urban or indoor formalized recreational activities shall not be undertaken within state recreation areas.

(b) Underwater recreation areas, consisting of areas in the nonmarine aquatic (lake or stream) environment selected and developed to provide surface and subsurface water-oriented recreational opportunities, while preserving basic resource values for present and future generations.

(c) State beaches, consisting of areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities. Coastal areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, or state marine (estuarine) cultural preservation areas.

(d) Wayside campgrounds, consisting of relatively small areas suitable for overnight camping and offering convenient access to major highways.

SEC. 16. Section 5019.59 of the Public Resources Code is amended to read:

5019.59. Historical units, to be named appropriately and individually, consist of nonmarine areas established primarily to preserve objects of historical, archaeological, and scientific interest, and archaeological sites and places commemorating important persons or historic events. The areas should be of sufficient size, where possible, to encompass a significant proportion of the landscape associated with the historical objects. The only facilities that may be provided are those required for the safety, comfort, and enjoyment of the visitors, such as

access, parking, water, sanitation, interpretation, and picnicking. Upon approval by the commission, lands outside the primary historic zone may be selected or acquired, developed, or operated to provide camping facilities within appropriate historical units. Upon approval by the State Park and Recreation Commission, an area outside the primary historic zone may be designated as a recreation zone to provide limited recreational opportunities that will supplement the public's enjoyment of the unit. Certain agricultural, mercantile, or other commercial activities may be permitted if those activities are a part of the history of the individual unit and any developments retain or restore historical authenticity. Historical units shall be named to perpetuate the primary historical theme of the individual units.

SEC. 17. Section 5019.62 of the Public Resources Code is amended to read:

5019.62. State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas landward of the mean high tide line and seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

SEC. 18. Section 5019.65 of the Public Resources Code is amended to read:

5019.65. State reserves consist of areas embracing outstanding natural or scenic characteristics of statewide significance. The purpose of a state reserve is to preserve its native ecological associations, unique faunal or floral characteristics, geological features, and scenic qualities in a condition of undisturbed integrity. Resource manipulation shall be restricted to the minimum required to negate the deleterious influence of man.

Improvements undertaken shall be for the purpose of making the areas available, on a day use basis, for public enjoyment and education in a

manner consistent with the preservation of their natural features. Living and nonliving resources contained within state reserves shall not be disturbed or removed for other than scientific or management purposes.

State reserves may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state.

SEC. 19. Section 5019.71 of the Public Resources Code is amended to read:

5019.71. Natural preserves consist of distinct nonmarine areas of outstanding natural or scientific significance established within the boundaries of other state park system units. The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, representative examples of plant or animal communities existing in California prior to the impact of civilization, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns. Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit. Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations that constitute the basis for the establishment of the natural preserve.

SEC. 20. Section 5019.74 of the Public Resources Code is amended to read:

5019.74. Cultural preserves consist of distinct nonmarine areas of outstanding cultural interest established within the boundaries of other state park system units for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California. Areas set aside as cultural preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially damaging influences, and to permit the effective management and interpretation of the resources. Within cultural preserves, complete integrity of the cultural resources shall be sought, and no structures or improvements that conflict with that integrity shall be permitted.

SEC. 21. Section 5019.80 is added to the Public Resources Code, to read:

5019.80. (a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27) establishes a uniform classification system for state marine managed areas and is incorporated herein by reference. Any proposals for marine managed areas made after January 1, 2002, shall follow the guidelines

set forth in that act. Pursuant to Section 36750, existing marine areas within units of the state park system that have not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee into one of the following classifications:

(1) State marine (estuarine) reserve.

(2) State marine (estuarine) park.

(3) State marine (estuarine) conservation area.

(4) State marine (estuarine) cultural preservation area.

(5) State marine (estuarine) recreational management area.

(b) The process for establishing, deleting, or modifying state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas shall be established pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

SEC. 22. Chapter 7 (commencing with Section 36600) is added to Division 27 of the Public Resources Code, to read:

CHAPTER 7. MARINE MANAGED AREAS IMPROVEMENT ACT

Article 1. General Provisions

36600. This chapter shall be known, and may be cited, as the Marine Managed Areas Improvement Act.

36601. (a) The Legislature finds and declares all of the following:

(1) California's extraordinary ocean and coastal resources provide a vital asset to the state and nation. These resources are important to public health and well-being, ecological health, and ocean-dependent industries.

(2) The ocean ecosystem is inextricably connected to the land, with coastal development, water pollution, and other human activities threatening the health of marine habitat and the biological diversity found in California's ocean waters. New technologies and demands have encouraged the expansion of fishing and other activities to formerly inaccessible marine areas that once recharged nearby fisheries. As a result, ecosystems throughout the state's ocean waters are being altered, often at a rapid rate.

(3) California's marine managed areas (MMAs), such as refuges, reserves, and state reserves, are one of many tools for resource managers to use for protecting, conserving, and managing the state's valuable marine resources. MMAs can offer many benefits, including protecting

habitats, species, cultural resources, and water quality; enhancing recreational opportunities; and contributing to the economy through such things as increased tourism and property values. MMAs may also benefit fisheries management by protecting representative habitats and reducing extractive uses.

(4) The array of state MMAs in California is the result of over 50 years of designations through legislative, administrative, and statewide ballot initiative actions, which has led to 18 classifications and subclassifications of these areas.

(5) A State Interagency Marine Managed Areas Workgroup was convened by the Resources Agency to address this issue, bringing together for the first time all of the state agencies with jurisdiction over these areas. This group's report indicates that California's state MMAs have evolved on a case-by-case basis, without conforming to any plan for establishing MMAs in the most effective way or in a manner which ensures that the most representative or unique areas of the ocean and coastal environment are included.

(6) The report further states that California's MMAs do not comprise an organized system, as the individual sites are not designated, classified, or managed in a systematic manner. Many of these areas lack clearly defined purposes, effective management measures, and enforcement.

(7) To some, this array of MMAs creates the illusion of a comprehensive system of management, while in reality, it falls short of its potential to protect, conserve, and manage natural, cultural, and recreational resources along the California coast. Without a properly designed and coordinated system of MMAs, it is difficult for agencies to meet management objectives, such as maintaining biodiversity, providing education and outreach, and protecting marine resources.

(8) Agency personnel and the public are often confused about the laws, rules, and regulations that apply to MMAs, especially those adjacent to a terrestrial area set aside for management purposes. Lack of clarity about the manner in which the set of laws, rules, and regulations for the array of MMAs interface and complement each other limits public and resource managers' ability to understand and apply the regulatory structure.

(9) Designation of sites and subsequent adoption of regulations often occur without adequate consideration being given to overall classification goals and objectives. This has contributed to fragmented management, poor compliance with regulations, and a lack of effective enforcement.

(10) Education and outreach related to state MMAs is limited and responsibility for these activities is distributed across many state agencies. These factors hamper the distribution of information to the

public regarding the benefits of MMAs and the role they can play in protecting ocean and coastal resources.

(11) There are few coordinated efforts to identify opportunities for public/private partnerships or public stewardship of MMAs or to provide access to general information and data about ocean and coastal resources within California's MMAs.

(12) Ocean and coastal scientists and managers generally know far less about the natural systems they work with than their terrestrial counterparts. Understanding natural and human-induced factors that affect ocean ecosystem health, including MMAs, is fundamental to the process of developing sound management policies.

(13) Research in California's MMAs can provide managers with a wealth of knowledge regarding habitat functions and values, species diversity, and complex physical, biological, chemical, and socioeconomic processes that affect the health of marine ecosystems. That information can be useful in determining the effectiveness of particular sites or classifications in achieving stated goals.

(b) With the single exception of state estuaries, it is the intent of the Legislature that the classifications currently available for use in the marine and estuarine environments of the state shall cease to be used and that a new classification system shall be established, with a mission, statement of objectives, clearly defined designation guidelines, specific classification goals, and a more scientifically-based process for designating sites and determining their effectiveness. The existing classifications may continue to be used for the terrestrial and freshwater environments of the state.

(c) Due to the interrelationship between land and sea, benefits can be gained from siting a portion of the state's marine managed areas adjacent to, or in close proximity to, terrestrial protected areas. To maximize the benefits that can be gained from having connected protected areas, whenever an MMA is adjacent to a terrestrial protected area, the managing agencies shall coordinate their activities to the greatest extent possible to achieve the objectives of both areas.

36602. The following definitions govern the construction of this chapter:

(a) ''Committee'' is the State Interagency Coordinating Committee established pursuant to Section 36800.

(b) ''Designating entity'' is the Fish and Game Commission, State Park and Recreation Commission, or State Water Resources Control Board, each of which has the authority to designate specified state marine managed areas.

(c) ''Managing agency'' is the Department of Fish and Game or the Department of Parks and Recreation, each of which has the authority to manage specified state marine managed areas.

(d) ''Marine managed area'' (MMA) is a named, discrete geographic marine or estuarine area along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses. The resources and uses may include, but are not limited to, living marine resources and their habitats, scenic views, water quality, recreational values, and cultural or geological resources. General areas that are administratively established for recreational or commercial fishing restrictions, such as seasonal or geographic closures or size limits, are not included in this definition. MMAs include the following classifications:

(1) State marine (estuarine) reserve, as defined in subdivision (a) of Section 36700.

(2) State marine (estuarine) park, as defined in subdivision (b) of Section 36700.

(3) State marine (estuarine) conservation area, as defined in subdivision (c) of Section 36700.

(4) State marine (estuarine) cultural preservation area, as defined in subdivision (d) of Section 36700.

(5) State marine (estuarine) recreational management area, as defined in subdivision (e) of Section 36700.

(6) State water quality protection areas, as defined in subdivision (f) of Section 36700.

(e) ''Marine protected area'' (MPA), consistent with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) is a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law or administrative action to protect or conserve marine life and habitat. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs). MPAs include the following classifications:

(1) State marine (estuarine) reserve, as defined in subdivision (a) of Section 36700.

(2) State marine (estuarine) park, as defined in subdivision (b) of Section 36700.

(3) State marine (estuarine) conservation area, as defined in subdivision (c) of Section 36700.

36620. The mission of the state MMA system is to ensure the long-term ecological viability and biological productivity of marine ecosystems and to preserve cultural resources in the coastal sea, in recognition of their intrinsic value and for the benefit of current and future generations. In support of this mission, the Legislature finds and declares that there is a need to reexamine and redesign California's array

of MMAs, to establish and manage a system using science and clear public policy directives to achieve all of the following objectives:

(a) Conserve representative or outstanding examples of marine habitats, biodiversity, ecosystems, and significant natural and cultural features or sites.

(b) Support and promote marine research, education, and science-based management.

(c) Help ensure sustainable uses of marine resources.

(d) Provide and enhance opportunities for public enjoyment of natural and cultural marine resources.

Article 2. Classifications, Designations, Restrictions, and Allowable Uses

36700. Six classifications for designating managed areas in the marine and estuarine environments are hereby established as described in this section, to become effective January 1, 2002. Where the term ''marine (estuarine)'' is used, it means that either the word ''marine'' or ''estuarine'' is to be used, as appropriate for the geographic area being designated. A geographic area may be designated under more than one classification.

(a) A ''state marine (estuarine) reserve'' is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(b) A ''state marine (estuarine) park'' is a nonterrestrial marine or estuarine area that is designated so the managing agency may provide opportunities for spiritual, scientific, educational, and recreational opportunities, as well as one or more of the following:

(1) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(2) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding representative or imperiled marine habitats or ecosystems.

(3) Preserve cultural objects of historical, archaeological, and scientific interest in marine areas.

(4) Preserve outstanding or unique geological features.

(c) A ''state marine (estuarine) conservation area'' is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(5) Preserve outstanding or unique geological features.

(6) Provide for sustainable living marine resource harvest.

(d) A ''state marine (estuarine) cultural preservation area'' is a nonterrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas.

(e) A ''state marine (estuarine) recreational management area'' is a nonterrestrial marine or estuarine area designated so the managing agency may provide, limit, or restrict recreational opportunities to meet other than exclusively local needs while preserving basic resource values for present and future generations.

(f) A ''state water quality protection area'' is a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process.

36710. The following classifications may not be inconsistent with United States military activities deemed mission critical by the United States military:

(a) In a state marine (estuarine) reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities such as walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and

monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine (estuarine) parks, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit, research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine (estuarine) conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

(d) In a state marine (estuarine) cultural preservation area, it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.

(e) In a state marine (estuarine) recreational management area, it is unlawful to perform any activity that, as determined by the designating entity or managing agency, would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted.

(f) In a state water quality protection area, point source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted.

36725. (a) The Fish and Game Commission may designate, delete, or modify state marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves, and state marine (estuarine) conservation areas. The Fish and Game Commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or

deleting state marine (estuarine) reserves and state marine (estuarine) conservation areas designated by the State Park and Recreation Commission. The Fish and Game Commission shall not delete or modify state marine (estuarine) recreational management areas designated by the State Park and Recreation Commission.

(b) The State Park and Recreation Commission may designate, delete, or modify state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas. The State Park and Recreation Commission may not designate, delete, or modify a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

(c) If an unresolved conflict exists between the Fish and Game Commission and the State Park and Recreation Commission regarding a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area, the Secretary of the Resources Agency may reconcile the conflict.

(d) The State Water Resources Control Board may designate, delete, or modify state water quality protection areas.

(e) The Fish and Game Commission, State Park and Recreation Commission, and State Water Resources Control Board each may restrict or prohibit recreational uses and other human activities in the MMAs for the benefit of the resources therein, except in the case of restrictions on the use of living marine resources. Pursuant to this section, and consistent with Section 2860 of the Fish and Game Code, the Fish and Game Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

(f) (1) The Department of Fish and Game may manage state marine (estuarine) reserves, state marine (estuarine) conservation areas, state marine (estuarine) recreational management areas established for hunting purposes and, if requested by the State Water Resources Control Board, state water quality protection areas.

(2) The Department of Parks and Recreation may manage state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

(3) The State Water Resources Control Board and the California regional water quality control boards may take appropriate actions to

protect state water quality protection areas. The State Water Resources Control Board may request the Department of Fish and Game or the Department of Parks and Recreation to take appropriate management action.

36750. Any MMA in existence on January 1, 2002, that has not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code), shall be reclassified under the classification system described in Section 36700 by January 1, 2003, based upon the management purpose and level of resource protection at each site on January 1, 2002. Upon the reclassification of existing sites, but no later than January 1, 2003, the use of all other classifications shall cease for the marine and estuarine environments of the state, though the classifications may continue to be used for the terrestrial and freshwater environments where applicable. The reclassification process shall be the responsibility of the State Interagency Coordinating Committee established pursuant to Section 36800, and shall occur to the extent feasible in conjunction and consistent with the MMA master planning process created pursuant to the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code).

36800. The Secretary of the Resources Agency shall establish and chair the State Interagency Coordinating Committee, whose members are representatives from those state agencies, departments, boards, commissions, and conservancies with jurisdiction or management interests over marine managed areas, including, but not limited to, the Department of Fish and Game, Department of Parks and Recreation, California Coastal Commission, State Water Resources Control Board, and State Lands Commission. The Secretary of the Resources Agency shall designate additional members of the committee. The committee shall review proposals for new or amended MMAs to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other such designations in the state. The committee shall also serve to ensure the proper and timely routing of site proposals, review any proposed site-specific regulations for consistency with the state system as a whole, and conduct periodic reviews of the statewide system to evaluate whether it is meeting the mission and statement of objectives.

36850. Designation guidelines based on the classification goals adopted for the state system of MMAs shall be developed jointly by the appropriate managing agencies in cooperation with the committee on or before January 1, 2002. These guidelines shall be used to provide a general sense of requirements for designating a site in any particular

classification, and may include characteristics such as uniqueness of the area or resource, biological productivity, special habitats, cultural or recreational values, and human impacts to the area. These designation guidelines shall be provided on a standard set of instructions for each classification.

36870. On or before January 1, 2002, the committee shall establish a standard set of instructions for each classification to guide organizations and individuals in submitting proposals for designating specific sites or networks of sites. On or before January 1, 2003, the relevant site proposal guidelines shall be adopted by each designating entity.

(a) At a minimum, each proposal shall include the following elements for consideration for designation as an MMA:

(1) Name of individual or organization proposing the designation.

(2) Contact information for the individual or organization, including contact person.

(3) Proposed classification.

(4) Proposed site name.

(5) Site location.

(6) Need, purpose, and goals for the site.

(7) Justification for the manner in which the proposed site meets the designation criteria for the proposed classification.

(8) A general description of the proposed site's pertinent biological, geological, and cultural resources.

(9) A general description of the proposed site's existing recreational uses, including fishing, diving, boating, and waterfowl hunting.

(b) The following elements, if not included in the original proposal, shall be added by the proposed managing agency in cooperation with the individual or organization making the proposal, prior to a final decision regarding designation:

(1) A legal description of the site boundaries and a boundary map.

(2) A more detailed description of the proposed site's pertinent biological, geological, cultural, and recreational resources.

(3) Estimated funding needs and proposed source of funds.

(4) A plan for meeting enforcement needs, including on-site staffing and equipment.

(5) A plan for evaluating the effectiveness of the site in achieving stated goals.

(6) Intended educational and research programs.

(7) Estimated economic impacts of the site, both positive and negative.

(8) Proposed mechanisms for coordinating existing regulatory and management authority, if any exists, within the area.

(9) An evaluation of the opportunities for cooperative state, federal, and local management, where the opportunities may exist.

36900. Individuals or organizations may submit a proposal to designate an MMA directly through the committee or an appropriate designating entity. Proposals submitted to a designating entity shall be forwarded to the committee to initiate the review process. Proposals for designating, deleting, or modifying MMAs may be submitted to the committee or a designating entity at any time. The committee and scientific review panel established pursuant to subdivision (b) shall annually consider and promptly act upon proposals until an MPA master plan is adopted pursuant to subdivision (b) of Section 2859 of the Fish and Game Code, and thereafter, no less than once every three years. Upon adoption of a statewide MPA plan, subsequent site proposals determined by the committee to be consistent with that plan shall be eligible for a simplified and cursory review of not more than 45 days.

(a) The committee shall review proposals to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other designations of that type in the state. After initial review by the coordinating committee and appropriate agencies, the proposal shall be forwarded to a scientific review panel established pursuant to subdivision (b).

(b) The Secretary of the Resources Agency shall establish a scientific review panel, with statewide representation and direction from the committee, to evaluate proposals for technical and scientific validity, including consideration of such things as site design criteria, location, and size. This panel, to the extent practical, shall be the same as the master plan team used in the process set forth in the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code). Members shall maintain familiarity with the types and effectiveness of MMAs used in other parts of the world for potential application to California. Members shall be reimbursed reasonable costs to participate in the activities of the panel. Where feasible, advice shall be sought from the appropriate federal agencies and existing regional or statewide marine research panels and advisory groups. After review by the scientific review panel, the committee shall forward the proposal and any recommendations to the appropriate designating entity for a public review process.

(c) Designating entities shall establish a process that provides for public review and comment in writing and through workshops or hearings, consistent with the legal mandates applicable to designating entities. All input provided by the committee and scientific review panel shall be made available to the public during this process. Outreach shall be made to the broadest ocean and coastal constituency possible, and

shall include commercial and sport fishing groups, conservation organizations, waterfowl groups and other recreational interests, academia, the general public, and all levels of government.

(d) This process does not replace the need to obtain the appropriate permits or reviews of other government agencies with jurisdiction or permitting authority.

(e) Nothing in this section shall be construed as altering or impeding the process identified under the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) or the actions of the master plan team described in that act.

SEC. 23. 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 386

An act to amend Sections 6400, 6402, 6403, 6404, and 6405 of the Business and Professions Code, relating to legal document and unlawful detainer assistants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 6400 of the Business and Professions Code is amended to read:

6400. (a) ''Unlawful detainer assistant'' means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

(b) ''Unlawful detainer claim'' means a proceeding, filing, or action affecting rights or liabilities of any person that arises under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure and that contemplates an adjudication by a court.

(c) ''Legal document assistant'' means:

(1) Any person who is not exempted under Section 6401 and who provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter, or who holds himself or herself out as someone who offers that service or has that authority. This paragraph shall not apply to any individual whose assistance consists merely of secretarial or receptionist services.

(2) A corporation, partnership, association, or other entity that employs or contracts with any person not exempted under Section 6401 who, as part of his or her responsibilities, provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter or holds himself or herself out as someone who offers that service or has that authority. This paragraph shall not apply to an individual whose assistance consists merely of secretarial or receptionist services.

(d) ''Self-help service'' means all of the following:

(1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person's specific direction.

(2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.

(3) Making published legal documents available to a person who is representing himself or herself in a legal matter.

(4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.

(e) ''Compensation'' means money, property, or anything else of value.

(f) A legal document assistant, including any legal document assistant employed by a partnership or corporation, shall not provide any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which his or her principal place of business is located and in any other county in which he or she performs acts for which registration is required.

(g) A legal document assistant shall not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or

strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (1) of subdivision (d).

(h) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 2. Section 6402 of the Business and Professions Code, as amended by Section 8 of Chapter 1079 of the Statutes of 1998, is amended to read:

6402. A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration). Any registration in a county other than the county of the person's place of business shall state the person's principal place of business and provide proof that the registrant has satisfied the bonding requirement of Section 6405. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant. The Department of Consumer Affairs shall, by July 1, 1999, develop the application that shall be completed by a person for purposes of registration as a legal document assistant. The application shall specify the types of proof that the applicant shall provide to the county clerk in order to demonstrate the qualification and requirements of Section 6402.1.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 6402 of the Business and Professions Code, as added by Section 9 of Chapter 1079 of the Statutes of 1998, is amended to read:

6402. An unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration). Any registration in a county other than the county of the person's place of business shall state the person's principal place of business and provide proof that the registrant has satisfied the bonding requirement of Section 6405. No person who

has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as an unlawful detainer assistant.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 4. Section 6403 of the Business and Professions Code, as added by Chapter 1079 of the Statutes of 1998, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment, if the action alleged fraud, or the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or have consented to the entry of a stipulated judgment. If the action alleged fraud, whether it involved the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 5. Section 6403 of the Business and Professions Code, as amended by Chapter 1079 of the Statutes of 1998, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

(5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.

(6) Whether he or she has had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(b) The application for registration of a natural person shall be accompanied by the display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.

(c) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether the general partners or officers have ever been convicted of a misdemeanor violation of this chapter.

(5) Whether the general partners or officers have had a civil judgment entered against them in an action arising out of a negligent, reckless, or willful failure to properly perform the obligations of a legal document assistant or unlawful detainer assistant.

(6) Whether the general partners or officers have ever had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(d) The applications made under this section shall be made under penalty of perjury.

(e) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable

to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 6. Section 6404 of the Business and Professions Code is amended to read:

6404. An applicant shall pay a fee of one hundred seventy-five dollars ($175) to the county clerk at the time he or she files an application for initial registration, including a primary or secondary registration, or renewal of registration. An additional fee of ten dollars ($10) shall be paid to the county clerk for each additional identification card.

SEC. 7. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) An application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) only if the partnership or corporation has not posted a bond of twenty-five thousand dollars ($25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the

registrant. The fee may be paid to the county clerk who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars ($25,000) in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

SEC. 7.5. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) Except as provided in paragraph (3), an application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond

or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) only if the partnership or corporation has not posted a bond of twenty-five thousand dollars ($25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) A legal document assistant who files an application for a certificate of registration in the County of Riverside, who limits his or her practice to that county, and who limits his or her practice solely to assisting either party in a small claims court action, may, in lieu of providing a bond of twenty-five thousand dollars ($25,000), provide a bond of five thousand dollars ($5,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to five thousand dollars ($5,000). An application for a certificate of registration accompanied by a bond of five thousand dollars ($5,000) as authorized by this paragraph shall indicate that the legal document assistant limits his or her practice solely to assisting parties in small claims actions.

(4) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for

recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars ($25,000) or five thousand dollars ($5,000), as applicable, in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

SEC. 8. Section 7.5 of this bill incorporates amendments to Section 6405 of the Business and Professions Code proposed by both this bill and SB 1927. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 6405 of the Business and Professions Code, and (3) this bill is enacted after SB 1927, in which case Section 6405 of the Business and Professions Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of SB 1927, at which time Section 7.5 of this bill shall become operative.

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:

This act would prevent legal document and unlawful detainer assistants from incurring bond costs associated with registering in counties in which they practice but do not maintain a principal place of business and would further the protection of consumers by requiring that bonds filed in connection with this registration procedure be in favor of the State of California for the benefit of persons damaged by specified acts of these registrants. In order to provide at the earliest possible time

that consumers receive greater protection and registrants be relieved of the hardship of bonding expenses in multiple jurisdictions, it is necessary that this act take effect immediately.

CHAPTER 387

An act to amend Section 21083.7 of the Public Resources Code, relating to environmental impact reports, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 21083.7 of the Public Resources Code is amended to read:

21083.7. (a) In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the lead agency shall, whenever possible, use the environmental impact statement as such environmental impact report as provided in Section 21083.5.

(b) In order to implement this section, each lead agency to which this section is applicable shall do both of the following, as soon as possible:

(1) Consult with the federal agency required to prepare such environmental impact statement.

(2) Notify the federal agency required to prepare the environmental impact statement regarding any scoping meeting for the proposed project.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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 expedite the process by which the environmental quality of the projects is assessed as soon as possible, it is necessary that this measure take effect immediately.

CHAPTER 388

An act to amend Sections 391, 5521.5, 6432, 7072, 7655, 8022, 8101, 8150.5, 8150.7, 8394.5, 8411, 8412, 8550.5, 8552.8, 11019, 12002.3, 12006.6, 12009, and 12157 of, to amend and renumber Section 6439 of, and to repeal Sections 6433, 6434, 6435, 6436, 6437, 6438, 8150.8, 8150.9, 8151, 8152, 8410, 8413, 8414, 8415, and 8664.65 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 391 of the Fish and Game Code is amended to read:

391. The department may exchange or release to any appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by the department under any provision of this code or any regulation adopted pursuant to this code.

SEC. 2. Section 5521.5 of the Fish and Game Code is amended to read:

5521.5. (a) In addition to the moratorium imposed by Section 5521, and notwithstanding any other provision of law, it is unlawful to take abalone for commercial purposes in District 6, 7, 16, 17, or 19A, in District 10 north of Point Lobos, or in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) There shall be a rebuttable presumption, affecting the burden of producing evidence, that a person who is required to obtain a license pursuant to Section 7145 and who takes or possesses more than 12 individual abalone possesses the abalone for commercial purposes.

SEC. 2.1. Section 6432 of the Fish and Game Code is amended to read:

6432. The department shall work cooperatively with the State Lands Commission and the State Water Resources Control Board to implement the Ballast Water Management Program established pursuant to

Division 36 (commencing with Section 71200) of the Public Resources Code.

SEC. 2.2. Section 6433 of the Fish and Game Code is repealed.

SEC. 2.3. Section 6434 of the Fish and Game Code is repealed.

SEC. 2.4. Section 6435 of the Fish and Game Code is repealed.

SEC. 2.5. Section 6436 of the Fish and Game Code is repealed.

SEC. 2.6. Section 6437 of the Fish and Game Code is repealed.

SEC. 2.7. Section 6438 of the Fish and Game Code is repealed.

SEC. 2.8. Section 6439 of the Fish and Game Code is amended and renumbered to read:

6433. 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 before January 1, 2004, deletes or extends that date.

SEC. 2.9. Section 7072 of the Fish and Game Code is amended to read:

7072. (a) Fishery management plans shall form the primary basis for managing California's sport and commercial marine fisheries.

(b) Fishery management plans shall be based on the best scientific information that is available, on other relevant information that the department possesses, or on such scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan.

(c) To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery.

(d) Consistent with Article 17 (commencing with Section 8585), the commission shall adopt a fishery management plan for the nearshore fishery on or before January 1, 2002, if funds are appropriated for that purpose in the annual Budget Act or pursuant to any other law.

SEC. 3. Section 7655 of the Fish and Game Code is amended to read:

7655. (a) It is the policy of the State of California that the state be represented on the Pacific Fishery Management Council by representatives of those fisheries directly subject to the fishery management plans of the council. Special emphasis shall be made on the nominations and appointments to the Pacific Fishery Management Council for a California commercial salmon troll fisherman. In addition to a commercial salmon troll fisherman, in order to assure a balanced representation on the Pacific Fishery Management Council, nominations shall also include representatives from the seafood processing industry, the commercial passenger carrying fishing industry, the groundfish fishery, and the coastal pelagic species fishery.

(b) When the Governor nominates persons for any seat on the Pacific Fishery Management Council, those individuals shall be knowledgeable of California's fishery resources and its fishing industry and needs. Further, the nominations shall be made after consultation with fishery organizations whose members are directly affected by the actions of the council.

SEC. 4. Section 8022 of the Fish and Game Code is amended to read:

8022. (a) The receipts, reports, or other records filed with the department pursuant to Article 2 (commencing with Section 7700) to Article 7.5 (commencing with Section 8040), inclusive, and the information contained therein, shall, except as otherwise provided in this section, be confidential, and the records shall not be public records. Insofar as possible, the information contained in the records shall be compiled or published as summaries, so as not to disclose the individual record or business of any person.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) to any federal agency responsible for fishery management activities, provided the information is used solely for the purposes of enforcing fishery management provisions and provided the information will otherwise remain confidential. The department may also release this information in accordance with Section 391 or pursuant to a court order.

SEC. 4.5. Section 8101 of the Fish and Game Code is amended to read:

8101. (a) Any licensed fisherman shall be eligible for inclusion during the initial year of a limited entry fishery which is established by statute that becomes operative after January 1, 1982, or by regulation that becomes operative after January 1, 1999, regardless of the prescribed conditions for entry into the fishery, if the fisherman presents to the department satisfactory evidence that he or she has been licensed as a California commercial fisherman for at least 20 years and has participated in the fishery for at least one of those 20 years, with qualifying participation in the fishery to be determined by the commission based on landings or other appropriate criteria.

(b) Fishermen who have established eligibility to participate in a limited entry fishery under this section are subject to conditions of continuing eligibility established by statute or regulation if those fishermen desire to maintain their eligibility.

SEC. 5. Section 8150.5 of the Fish and Game Code is amended to read:

8150.5. (a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.

(b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.

(c) Imported sardines may be used for dead bait under regulations adopted by the commission.

SEC. 6. Section 8150.7 of the Fish and Game Code is amended to read:

8150.7. It is the intent of the Legislature that the sardine resource be managed with the objective of maximizing the sustained harvest. The department shall manage the sardine resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

SEC. 7. Section 8150.8 of the Fish and Game Code is repealed.

SEC. 8. Section 8150.9 of the Fish and Game Code is repealed.

SEC. 9. Section 8151 of the Fish and Game Code is repealed.

SEC. 10. Section 8152 of the Fish and Game Code is repealed.

SEC. 10.5. Section 8394.5 of the Fish and Game Code is amended to read:

8394.5. The fee for the permit issued pursuant to Section 8394 is three hundred thirty dollars ($330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2.

SEC. 11. Section 8410 of the Fish and Game Code is repealed.

SEC. 12. Section 8411 of the Fish and Game Code is amended to read:

8411. The department shall manage the Pacific mackerel resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

SEC. 13. Section 8412 of the Fish and Game Code is amended to read:

8412. Pacific mackerel may be taken under a revocable nontransferable permit issued by the department to boat owners or operators under conditions prescribed by the department.

SEC. 14. Section 8413 of the Fish and Game Code is repealed.

SEC. 15. Section 8414 of the Fish and Game Code is repealed.

SEC. 16. Section 8415 of the Fish and Game Code is repealed.

SEC. 17. Section 8550.5 of the Fish and Game Code is amended to read:

8550.5. (a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed commercial fishermen, subject to regulations adopted under Section 8550, as follows:

(1) To any resident of this state to use gill nets, upon payment of a fee of two hundred sixty-five dollars ($265).

(2) To any nonresident to use gill nets, upon payment of a fee of one thousand dollars ($1,000).

(b) The commission shall not require a permit for a person to be a crewmember on a vessel taking herring pursuant to this article.

SEC. 18. Section 8552.8 of the Fish and Game Code is amended to read:

8552.8. (a) For purposes of this article, the experience points for a person engaged in the herring roe fishery shall be based on the number of years holding a commercial fishing license and the number of years having served as a crewmember in the herring roe fishery, and determined by the sum of both of the following:

(1) One point for each year in the previous 12 years (prior to the current license year) that the person has held a commercial fishing license issued pursuant to Section 7852, not to exceed a maximum of 10 points.

(2) Five points for one year of service as a paid crewmember in the herring roe fishery, as determined pursuant to Section 8559, three points for a second year of service as a paid crewmember, and two points for a third year as a paid crewmember, beginning with the 1978–79 herring fishing season, not to exceed a maximum of 10 points.

(b) The department shall maintain a list of all individuals possessing the maximum of 20 experience points and of all those persons holding two points or more, grouped in a list by number of points. The list shall be maintained annually and shall be available from the department to all pointholders and to all herring permittees. All pointholders are responsible for providing the department with their current address and for verifying points credited to them by the department.

(c) A herring permittee may use the department's list and rely upon that list in making offers for transfer of his or her permit until the date of the annual distribution of the new list. On and after the date of the annual revision of the list, the permittee shall use the new list.

(d) The point provisions in this section are for purposes of sale of a permit or transfer to a partner of a coowned permit.

SEC. 19. Section 8664.65 of the Fish and Game Code is repealed.

SEC. 20. Section 11019 of the Fish and Game Code is amended to read:

11019. The following constitutes Fish and Game District 11:

The waters and tidelands of San Francisco Bay to high-water mark bounded as follows: Beginning at the extreme westerly point of Point Bonita; thence in a direct line to the extreme westerly point of Point Lobos; thence around the shore line of San Francisco Bay to the foot of Powell Street; thence in a direct line northwesterly to Peninsula Point,

the most southerly extremity of Belvedere Island; thence in a direct line westerly to the easternmost point of the ferry dock at Sausalito; thence southerly and westerly around the shore of San Francisco Bay to the point of beginning.

SEC. 21. Section 12002.3 of the Fish and Game Code is amended to read:

12002.3. (a) Notwithstanding any other provision of law, a violation of Section 7121 for the sale, purchase, or receipt of fish taken by a person required to be licensed pursuant to Section 7145 is punishable by a fine of not less than two thousand dollars ($2,000) or more than seven thousand five hundred dollars ($7,500), except as provided in subdivisions (b) and (c).

(b) If the violation in question involved the illegal sale or purchase of abalone taken by a person required to be licensed pursuant to Section 7145, the violation is punishable by a fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000).

(c) If the violation in question involved a person who knowingly purchased or received for commercial purposes, fish taken by a person required to be licensed pursuant to Section 7145, the violation is punishable by a fine of not less than seven thousand five hundred dollars ($7,500) or more than fifteen thousand dollars ($15,000).

SEC. 22. Section 12006.6 of the Fish and Game Code is amended to read:

12006.6. Notwithstanding Section 12000 or 12002.8, and in addition to Section 12009, and notwithstanding the type of fishing license or permit held, if any person is convicted of a violation of Section 5521 or 5521.5, and the offense occurs in an area closed to the taking of abalone for commercial purposes, and the person takes or possesses more than 12 abalone at one time or more than 100 abalone during a calendar year, that person shall be punished by all of the following:

(a) A fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000).

(b) The court shall order the department to permanently revoke, and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of that person. The person punished under this subdivision shall not, thereafter, be eligible for any license or permit to take or possess fish for sport or commercial purposes, including, but not limited to, a commercial fishing license or a sport fishing or sport ocean fishing license. Notwithstanding any other provision of law, the commercial license or permit of a person arrested for a violation punishable under this section may not be sold, transferred, loaned, leased, or used as security for any financial transaction until disposition of the charges is final.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section shall be seized, and shall be ordered forfeited in the same manner prescribed for nets or traps used in violation of this code, as described in Article 3 (commencing with Section 8630) of Chapter 3, or in the manner prescribed in Section 12157.

(d) Not less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the Wildlife Protection Division of the department and used for law enforcement purposes.

SEC. 23. Section 12009 of the Fish and Game Code is amended to read:

12009. (a) Notwithstanding Section 12000, and except as provided in Section 12006.6, the punishment for a violation of any provision of Section 5521 or 5521.5, or any regulation adopted pursuant thereto, or of Section 7121 involving abalone, is a fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000) and imprisonment in the county jail for a period not to exceed one year. The court shall permanently revoke any commercial fishing license, commercial fishing permit, or sport fishing license issued by the department. Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section, may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 12157. Notwithstanding any other provision of law, the commercial license of any person arrested for a violation punishable under this section may not be sold, transferred, loaned, or leased, or used as security for any financial transaction until disposition of the charges is final.

(b) Notwithstanding any other provision of law, the money collected from any fine or forfeiture imposed or collected for the taking of abalone for any purpose other than for profit in violation of this article or any other provision of law shall be deposited as follows:

(1) One-half in the Abalone Restoration and Preservation Account.

(2) One-half in the county treasury of the county in which the violation occurred.

SEC. 24. Section 12157 of the Fish and Game Code is amended to read:

12157. (a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish,

reptiles, or amphibia and that was used in committing the offense charged.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c) (1) The judge may, for conviction of a violation of either of the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:

(A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.

(B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.

(2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle had knowledge of the violation.

(3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations of Section 2000, as determined by the court.

(d) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(e) (1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.

(2) A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(f) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or traffic hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(g) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(h) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

SEC. 25. 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 389

An act to amend Section 1357 of the Health and Safety Code, relating to small employer health care coverage.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 1357 of the Health and Safety Code is amended to read:

1357. As used in this article:

(a) ''Dependent'' means the spouse or child of an eligible employee, subject to applicable terms of the health care plan contract covering the employee, and includes dependents of guaranteed association members if the association elects to include dependents under its health coverage at the same time it determines its membership composition pursuant to subdivision (o).

(b) ''Eligible employee'' means either of the following:

(1) Any permanent employee who is actively engaged on a full-time basis in the conduct of the business of the small employer with a normal workweek of at least 30 hours, at the small employer's regular places of business, who has met any statutorily authorized applicable waiting period requirements. The term includes sole proprietors or partners of a partnership, if they are actively engaged on a full-time basis in the small employer's business and included as employees under a health care plan

contract of a small employer, but does not include employees who work on a part-time, temporary, or substitute basis. It includes any eligible employee as defined in this paragraph who obtains coverage through a guaranteed association. Employees of employers purchasing through a guaranteed association shall be deemed to be eligible employees if they would otherwise meet the definition except for the number of persons employed by the employer. Permanent employees who work at least 20 hours but not more than 29 hours are deemed to be eligible employees if all four of the following apply:

(A) They otherwise meet the definition of an eligible employee except for the number of hours worked.

(B) The employer offers the employees health coverage under a health benefit plan.

(C) All similarly situated individuals are offered coverage under the health benefit plan.

(D) The employee must have worked at least 20 hours per normal workweek for at least 50 percent of the weeks in the previous calendar quarter. The health care service plan may request any necessary information to document the hours and time period in question, including, but not limited to, payroll records and employee wage and tax filings.

(2) Any member of a guaranteed association as defined in subdivision (o).

(c) ''In force business'' means an existing health benefit plan contract issued by the plan to a small employer.

(d) ''Late enrollee'' means an eligible employee or dependent who has declined enrollment in a health benefit plan offered by a small employer at the time of the initial enrollment period provided under the terms of the health benefit plan and who subsequently requests enrollment in a health benefit plan of that small employer, provided that the initial enrollment period shall be a period of at least 30 days. It also means any member of an association that is a guaranteed association as well as any other person eligible to purchase through the guaranteed association when that person has failed to purchase coverage during the initial enrollment period provided under the terms of the guaranteed association's plan contract and who subsequently requests enrollment in the plan, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee, any other person eligible for coverage through a guaranteed association pursuant to subdivision (o), or dependent shall not be considered a late enrollee if any of the following is applicable:

(1) The individual meets all of the following requirements:

(A) He or she 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) He or she 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 plan, the individual was given the opportunity to make the certification required by this subdivision and was notified that failure to do so could result in later treatment as a late enrollee.

(C) He or she has lost or will lose coverage under another employer health benefit plan as a result of termination of employment of the individual or of a person through whom the individual was covered as a dependent, change in employment status of the individual or of a person through whom the individual was covered as a dependent, termination of the other plan's coverage, cessation of an employer's contribution toward an employee or dependent's coverage, death of the person through whom the individual was covered as a dependent, legal separation, divorce, or loss of no share-of-cost Medi-Cal coverage.

(D) He or she requests enrollment within 30 days after termination of coverage or employer contribution toward coverage provided under another employer health benefit plan.

(2) The employer offers multiple health benefit plans and the employee elects a different plan during an open enrollment period.

(3) A court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan.

(4) (A) In the case of an eligible employee as defined in paragraph (1) of subdivision (b), the plan cannot produce a written statement from the employer stating that the individual or the person through whom the individual was eligible to be covered as a dependent, prior to declining coverage, was provided with, and signed, acknowledgment of an explicit written notice in 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).

(B) In the case of an association member who did not purchase coverage through a guaranteed association, the plan cannot produce a written statement from the association stating that the association sent a written notice in boldface type to all potentially eligible association members at their last known address prior to the initial enrollment period informing members that failure to elect coverage during the initial enrollment period permits the plan to impose, at the time of the

member's later decision to elect coverage, an exclusion from coverage for a period of 12 months as well as a six-month preexisting condition exclusion unless the member can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) or paragraph (2) or (3).

(C) In the case of an employer or person who is not a member of an association, was eligible to purchase coverage through a guaranteed association, and did not do so, and would not be eligible to purchase guaranteed coverage unless purchased through a guaranteed association, the employer or person can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1), or paragraph (2) or (3), or that he or she recently had a change in status that would make him or her eligible and that application for enrollment was made within 30 days of the change.

(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 after 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.

(e) ''New business'' means a health care service plan contract issued to a small employer that is not the plan's in force business.

(f) ''Preexisting condition provision'' means a contract provision that excludes coverage for charges or expenses incurred during a specified period following the employee's effective date of coverage, as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

(g) ''Creditable coverage'' means:

(1) Any individual or group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care, 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)).

(h) ''Rating period'' means the period for which premium rates established by a plan are in effect and shall be no less than six months.

(i) ''Risk adjusted employee risk rate'' means the rate determined for an eligible employee of a small employer in a particular risk category after applying the risk adjustment factor.

(j) ''Risk adjustment factor'' means the percentage adjustment to be applied equally to each standard employee risk rate for a particular small employer, based upon any expected deviations from standard cost of services. This factor may not be more than 120 percent or less than 80 percent until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent.

(k) ''Risk category'' means the following characteristics of an eligible employee: age, geographic region, and family composition of the employee, plus the health benefit plan selected by the small employer.

(1) No more than the following age categories may be used in determining premium rates:

Under 30
30–39
40–49
50–54
55–59
60–64
65 and over

However, for the 65 and over age category, separate premium rates may be specified depending upon whether coverage under the plan contract will be primary or secondary to benefits provided by the federal Medicare program pursuant to Title XVIII of the federal Social Security Act.

(2) Small employer health care service plans shall base rates to small employers using no more than the following family size categories:

(A) Single.
(B) Married couple.
(C) One adult and child or children.
(D) Married couple and child or children.

(3) (A) In determining rates for small employers, a plan that operates statewide shall use no more than nine geographic regions in the state, have no region smaller than an area in which the first three digits of all its ZIP Codes are in common within a county, and divide no county into more than two regions. Plans shall be deemed to be operating statewide if their coverage area includes 90 percent or more of the state's population. Geographic regions established pursuant to this section shall, as a group, cover the entire state, and the area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous.

(B) (i) In determining rates for small employers, a plan that does not operate statewide shall use no more than the number of geographic regions in the state that is determined by the following formula: the population, as determined in the last federal census, of all counties that are included in their entirety in a plan's service area divided by the total population of the state, as determined in the last federal census, multiplied by nine. The resulting number shall be rounded to the nearest whole integer. No region may be smaller than an area in which the first three digits of all its ZIP Codes are in common within a county and no county may be divided into more than two regions. The area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous. No plan shall have less than one geographic area.

(ii) If the formula in clause (i) results in a plan that operates in more than one county having only one geographic region, then the formula in clause (i) shall not apply and the plan may have two geographic regions, provided that no county is divided into more than one region.

Nothing in this section shall be construed to require a plan to establish a new service area or to offer health coverage on a statewide basis, outside of the plan's existing service area.

(*l*) ''Small employer'' means either of the following:

(1) Any person, firm, proprietary or nonprofit corporation, partnership, public agency, or association that is actively engaged in business or service, that, on at least 50 percent of its working days during the preceding calendar quarter or preceding calendar year, employed at least two, but no more than 50, eligible employees, the majority of whom were employed within this state, that was not formed primarily for purposes of buying health care service plan contracts, and in which a bona fide employer-employee relationship exists. In determining whether to apply the calendar quarter or calendar year test, a health care

service plan shall use the test that ensures eligibility if only one test would establish eligibility. However, for purposes of subdivisions (a), (b), and (c) of Section 1357.03, the definition shall include employers with at least three eligible employees until July 1, 1997, and two eligible employees thereafter. In determining the number of eligible employees, companies that are affiliated companies and that are eligible to file a combined tax return for purposes of state taxation shall be considered one employer. Subsequent to the issuance of a health care service plan contract to a small employer pursuant to this article, and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided in this article, provisions of this article that apply to a small employer shall continue to apply until the plan contract anniversary following the date the employer no longer meets the requirements of this definition. It includes any small employer as defined in this paragraph who purchases coverage through a guaranteed association, and any employer purchasing coverage for employees through a guaranteed association.

(2) Any guaranteed association, as defined in subdivision (n), that purchases health coverage for members of the association.

(m) ''Standard employee risk rate'' means the rate applicable to an eligible employee in a particular risk category in a small employer group.

(n) ''Guaranteed association'' means a nonprofit organization comprised of a group of individuals or employers who associate based solely on participation in a specified profession or industry, accepting for membership any individual or employer meeting its membership criteria, and that (1) includes one or more small employers as defined in paragraph (1) of subdivision (*l*), (2) does not condition membership directly or indirectly on the health or claims history of any person, (3) uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered to the association, (4) is organized and maintained in good faith for purposes unrelated to insurance, (5) has been in active existence on January 1, 1992, and for at least five years prior to that date, (6) has included health insurance as a membership benefit for at least five years prior to January 1, 1992, (7) has a constitution and bylaws, or other analogous governing documents that provide for election of the governing board of the association by its members, (8) offers any plan contract that is purchased to all individual members and employer members in this state, (9) includes any member choosing to enroll in the plan contracts offered to the association provided that the member has agreed to make the required premium payments, and (10) covers at least 1,000 persons with the health care service plan with which it contracts.

The requirement of 1,000 persons may be met if component chapters of a statewide association contracting separately with the same carrier cover at least 1,000 persons in the aggregate.

This subdivision applies regardless of whether a contract issued by a plan is with an association or a trust formed for, or sponsored by, an association to administer benefits for association members.

For purposes of this subdivision, an association formed by a merger of two or more associations after January 1, 1992, and otherwise meeting the criteria of this subdivision shall be deemed to have been in active existence on January 1, 1992, if its predecessor organizations had been in active existence on January 1, 1992, and for at least five years prior to that date and otherwise met the criteria of this subdivision.

(o) ''Members of a guaranteed association'' means any individual or employer meeting the association's membership criteria if that person is a member of the association and chooses to purchase health coverage through the association. At the association's discretion, it also may include employees of association members, association staff, retired members, retired employees of members, and surviving spouses and dependents of deceased members. However, if an association chooses to include these persons as members of the guaranteed association, the association shall make that election in advance of purchasing a plan contract. Health care service plans may require an association to adhere to the membership composition it selects for up to 12 months.

(p) ''Affiliation period'' means a period that, under the terms of the health care service plan contract, must expire before health care services under the contract become effective.

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 390

An act to amend Section 71000 of the Education Code, relating to community colleges.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of 16 voting members and one nonvoting member, appointed by the Governor, as follows:

(a) Thirteen members, each appointed with the advice and consent of two-thirds of the membership of the Senate to six-year staggered terms. Two of these members shall be current or former elected members of local community college district governing boards.

(b) (1) (A) One voting student member, and one nonvoting student member, who exercise their duties in accordance with the procedure set forth in paragraph (3).

(B) These students shall be enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of their terms, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment, and shall meet and maintain the minimum standards of scholarship prescribed for community college students.

(C) Each student member shall be appointed from a list of names of at least three persons submitted to the Governor by the California Student Association of Community Colleges.

(2) The term of office of one student member of the board shall commence on July 1 of an even-numbered year and expire on June 30 two years thereafter. The term of office of the other student member of the board shall commence on July 1 of an odd-numbered year and expire on June 30 two years thereafter. Notwithstanding paragraph (1), a student member who graduates from his or her college on or after January 1 of the second year of his or her term of office may serve the remainder of the term.

(3) During the first year of a student member's term, a student member shall be a member of the board and may attend all meetings of the board and its committees. At these meetings, a student member may fully participate in discussion and debate, but may not vote. During the second year of a student member's term, a student member may exercise the same right to attend meetings of the board, and its committees, and shall have the same right to vote as the members appointed pursuant to subdivisions (a) and (c).

(4) Notwithstanding paragraph (3), if a student member resigns from office or a vacancy is otherwise created in that office during the second year of a student member's term, the remaining student member shall immediately assume the office created by the vacancy and all of the

participation privileges of the second-year student member, including the right to vote, for the remainder of that term of office.

(c) Two tenured faculty members from a community college, who shall be appointed for two-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. Each seat designated as a tenured faculty member seat shall be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

CHAPTER 391

An act to add Section 13952.1 to the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 13952.1 is added to the Water Code, to read:

13952.1. (a) Notwithstanding Section 13951, the South Tahoe Public Utility District may provide recycled water only to prevent the destruction of its Luther Pass recycled water pump station from a catastrophic fire if all of the following conditions are met:

(1) The district submits an engineering report to the Lahontan Regional Board and the State Department of Health Services, as required by that regional board and that department.

(2) The Lahontan Regional Board, the State Department of Health Services, and the Tahoe Regional Planning Agency authorize the use of recycled water, and the specified area or areas in the immediate vicinity of the pump station where that recycled water may be used, only to prevent the destruction of the district's Luther Pass recycled water pump station from a catastrophic fire.

(3) The fire incident commander authorizes the use of the recycled water to prevent the destruction of the district's Luther Pass recycled water pump station from a catastrophic fire, as authorized pursuant to this section.

(b) For purposes of this section, ''catastrophic fire'' means a condition exists that will result in severe harm to life, property, and the environment if the use of recycled water as authorized pursuant to this section is not used, and all other methods to extinguish the fire have been exhausted.

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 recycled water export requirements to which the South Tahoe Public Utility District is subject.

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 possible destruction of the Luther Pass recycled water pump facility from a catastrophic fire at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 392

An act to add Chapter 8.6 (commencing with Section 1360) to Division 6 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Chapter 8.6 (commencing with Section 1360) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 8.6. VETERANS MEMORIAL REGISTRY

1360. The Department of Veterans Affairs shall establish a statewide Veterans Memorial Registry. The registry shall provide the location and condition of all known veterans memorials in California. The department may seek the assistance and cooperation of the Golden State Museum, State Archives, Secretary of State, Department of Information Technology, Department of Parks and Recreation, and other appropriate agencies, including agencies with expertise in historical sites.

1361. The Veterans Memorial Registry shall be made available on the web site of the Department of Veterans Affairs. The department shall provide the geographically referenced information in a readily accessible format that permits members of the public to submit

information on memorials to the registry, which shall be updated on a regular basis.

CHAPTER 393

An act to amend Sections 473.1, 473.2, 473.3, 473.5, 7801, 7810, 7815.5, 18602, and 18613 of, and to repeal Sections 473.16 and 473.17 of, the Business and Professions Code, and to repeal Section 1 of Chapter 78 of the Statutes of 1997, relating to professions and vocations.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This division shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.

(b) The Bureau for Postsecondary and Vocational Education. For purposes of this division, ''board'' includes the bureau.

SEC. 2. Section 473.16 of the Business and Professions Code is repealed.

SEC. 3. Section 473.17 of the Business and Professions Code is repealed.

SEC. 4. Section 473.2 of the Business and Professions Code is amended to read:

473.2. All boards to which this division applies shall, with the assistance of the Department of Consumer Affairs, prepare an analysis and submit a report to the Joint Legislative Sunset Review Committee no later than 22 months before that board shall become inoperative. The analysis and report shall include, at a minimum, all of the following:

(a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.

(b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.

(c) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

(d) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, relevancy and validity of the licensing examination, and passage rate and areas of examination.

(e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

SEC. 5. Section 473.3 of the Business and Professions Code is amended to read:

473.3. (a) Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Legislative Sunset Review Committee shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(b) In addition to subdivision (a), in the year 2002 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.

SEC. 6. Section 473.5 of the Business and Professions Code is amended to read:

473.5. The Joint Legislative Sunset Review Committee shall report its findings and preliminary recommendations to the department for its review, and, within 90 days of receiving the report, the department shall report its findings and recommendations to the Joint Legislative Sunset Review Committee during the next year of the regular session that follows the hearings described in Section 473.3. The committee shall then meet to vote on final recommendations. A final report shall be completed by the committee and made available to the public and the Legislature. The report shall include final recommendations of the department and the committee and whether each board or function scheduled for repeal shall be terminated, continued, or reestablished, and whether its functions should be revised. If the committee or the

department deems it advisable, the report may include proposed bills to carry out its recommendations.

SEC. 7. Section 7801 of the Business and Professions Code is amended to read:

7801. ''Board,'' as used in this chapter, means the Board for Geologists and Geophysicists. Any reference in any law or regulation to the State Board of Registration for Geologists and Geophysicists shall be deemed to refer to the Board for Geologists and Geophysicists.

SEC. 8. Section 7810 of the Business and Professions Code is amended to read:

7810. The Board for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

Each member shall hold office until the appointment and qualification of the member's successor or until one year has elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.

At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.

This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 9. Section 7815.5 of the Business and Professions Code is amended to read:

7815.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 18602 of the Business and Professions Code is amended to read:

18602. Except as provided in this section, there is in the Department of Consumer Affairs the State Athletic Commission, which consists of eight members. Six members shall be appointed by the Governor, one member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

No person who is licensed under this chapter as a promoter, manager, or judge may be appointed or reappointed to, or serve on, the commission.

Upon the first expiration of the term of a member appointed by the Governor, the commission shall be reduced to seven members. Notwithstanding any provision of law, the term of that member shall not be extended for any reason.

This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, which becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the commission subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 11. Section 18613 of the Business and Professions Code is amended to read:

18613. The commission shall appoint an executive officer and fix his or her compensation. The executive officer shall carry out the duties prescribed by this chapter and additional duties as may be delegated by the commission. The commission may employ in accordance with Section 154 other personnel as may be necessary for the administration of this chapter.

This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 1 of Chapter 78 of the Statutes of 1997 is repealed.

CHAPTER 394

An act to amend Sections 1126, 1180.3, and 1181 of the Harbors and Navigation Code, relating to bay pilots.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 1126 of the Harbors and Navigation Code is amended to read:

1126. (a) Every person who does not hold a license as a pilot or as an inland pilot issued pursuant to this division, and who pilots any vessel into or out of any harbor or port of the Bay of San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays, is guilty of a misdemeanor. In addition to the fines or other penalties provided by law, the court may order that person to pay to the pilot who is entitled to pilot the vessel the amount of pilotage fees collected. No fees shall be paid for pilotage if a state-licensed pilot refuses to join the vessel under paragraph (5) of subdivision (c).

(b) Any person may also be enjoined from engaging in the pilotage prescribed by subdivision (a) by a court of competent jurisdiction.

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

(1) The master of a vessel who has relieved the pilot to ensure the safe operation of the vessel, but only from the point where the pilot is relieved to the closest safe berth or anchorage, or the high seas if closer than a safe berth or anchorage.

(2) Persons piloting vessels pursuant to the valid regulatory authority of the Port of Sacramento or the Port of Stockton.

(3) Persons piloting vessels sailing under an enrollment, as specified in Section 1127.

(4) Persons piloting vessels pursuant to Section 1179.

(5) Persons piloting vessels when a state-licensed pilot refuses to join the vessel. However, a vessel may not hire a pilot not licensed by the state until a representative of the vessel notifies the port agent or his or her designee that the vessel will hire a pilot not licensed by the state unless a state-licensed pilot offers to join the vessel immediately. The port agent

or his or her designee shall notify the executive director of the board or his or her designee that this paragraph applies.

(d) The exemption set forth in paragraph (5) of subdivision (c) does not apply in instances where a state licensed pilot refuses to join a vessel because of suspected safety violations concerning that vessel's pilot hoists or pilot ladders.

SEC. 2. Section 1180.3 of the Harbors and Navigation Code is amended to read:

1180.3. (a) The board shall establish an incident review committee, which shall be composed of one public member of the board and the executive director. The board shall delegate to the incident review committee the responsibility to review all reports of misconduct or navigational incidents involving pilots or inland pilots or other matters for which a license issued by the board may be revoked or suspended. This subdivision does not apply to an incident involving a pilot or inland pilot aboard a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(b) The incident review committee, with the assistance of one or more investigators, shall investigate the incident, misconduct, or other matter and prepare a written report. The incident review committee may call witnesses and request additional information if the incident review committee considers it necessary to conduct a complete investigation. In performing their duties, the members of the incident review committee and its investigators shall act fairly and impartially and shall treat all matters developed or maintained as required by law. The members of the incident review committee and the investigators shall not discuss any investigation with the board or any member of the board until the matter has been finally disposed of by the incident review committee or final action has been taken by the board, as appropriate. The board shall specify, by regulation, the information to be contained in the report, which shall include, but need not be limited to, the following information relating to the incident, misconduct, or other matter:

(1) The name of the vessel, date, location, and identification of the pilot or inland pilot.

(2) A description of the weather and sea conditions.

(3) An illustration and description of the incident, misconduct, or other matter under investigation.

(4) An estimate of the damages, if any.

(5) The names of the witnesses providing information relating to the incident, misconduct, or other matter under investigation.

(6) The nature and extent of any injuries.

(7) A summary of any prior investigations of incidents, misconduct, or other matters involving the same pilot or inland pilot designated pursuant to paragraph (1).

(8) Any relevant correspondence or records from the United States Coast Guard relating to the incident, misconduct, or other matter under investigation.

(9) A historical record of the actions taken in the investigation and the action taken pursuant to Section 1180.6.

(10) A summary of the factual background of the incident, misconduct, or other matter investigated.

(11) The following information that is not a part of the public record:

(A) The report from the pilot or inland pilot.

(B) The confidential report of the investigator.

(c) Unless an accusation for suspension or revocation of the pilot's or inland pilot's license is served on the pilot or inland pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the incident review committee shall present the completed investigation report to the board at the first monthly meeting of the board after the completion of the report. Unless an extension is granted by the board, the report shall be presented within 90 days of the date of the incident, misconduct, or other matter investigated.

(d) The record of the investigation prepared pursuant to subdivision (b) and the final disposition of the incident, misconduct, or other matter shall be retained in the records of the board for 10 years after the completion of the investigation and, except for the items listed in paragraph (11) of subdivision (b), shall be a public record.

SEC. 3. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot or inland pilot may be revoked or suspended before its expiration only for reasons of misconduct, which shall include, but not be limited to, the following:

(a) Neglect, for 30 days after it becomes due, to render an account to the board of all money received for pilotage.

(b) Neglect, for 30 days after it becomes due, to pay over to the board the percentage of all pilotage money received, as set by the board.

(c) Rendering to the board a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the board, unless sickness or personal injury causes the absence. This subdivision does not apply to inland pilots.

(e) Refusing to exhibit the pilot or inland pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances which so affects the nervous system, brain,

or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot or inland pilot while on duty.

(g) Negligently, ignorantly, or willfully running any vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. However, this subdivision does not apply to a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(h) Willful violation of the rules and regulations adopted by the board for the government of pilots or inland pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot or inland pilot, but in that case the burden of proving compliance with these standards is upon the licensee, unless prior to the hearing the licensee takes and passes those tests or examinations required by the board.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 395

An act to add Section 1352.5 to the Fish and Game Code, relating to property acquisition, and making an appropriation therefor.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

I am signing Assembly Bill 398, which establishes the San Francisco Baylands Restoration Program Account in the State Wildlife Restoration Fund and appropriates General Fund revenues to the Account for the purpose of acquiring and restoring San Francisco Bay wetlands and habitat which may include the Cargill Salt property.

However, in signing this measure, I am reducing the appropriation from $30 million to $25 million. I feel that this appropriation is sufficient to show the State's good faith in working with the federal government to make a joint purchase of these historic wetlands upon completion of an independent appraisal.

GRAY DAVIS, Governor

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 desirable to restore and enhance large areas in the San Francisco Bay area to sustain diverse and healthy communities of fish and wildlife resources, to improve the water quality of the San Francisco Bay, and to provide increased recreational and educational opportunities.

(b) The Baylands Ecosystem Habitat Goals Report (Goals Report), published in 1999 by a group of 100 scientists and resource managers, details the types, amounts, and distribution of wetlands and related habitats needed to sustain a healthy San Francisco Bay ecosystem. To achieve the recommendations of the Goals Report, it will be necessary to undertake a historic effort of the large-scale acquisition and restoration of properties throughout the Bay area. For example, the recommendations of the Goals Report for the South Bay subregion identify acquisition and restoration of the Cargill Salt ponds as a necessary step to sustain and recover populations of several endangered species and to improve the overall condition of the Bay's fish and wildlife resources.

SEC. 2. Section 1352.5 is added to the Fish and Game Code, to read:

1352.5. (a) The San Francisco Baylands Restoration Program Account is hereby established within the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, for the purpose of acquiring and restoring wetlands and lands that may be enhanced to support wetlands in the San Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem Habitat Goals Report (Goals Report).

(b) Funds in the account may be expended by the board to acquire any lands identified in the Goals Report that are available for acquisition subject to the following conditions:

(1) The purchase price shall not exceed the fair market value of the property, as determined by an appraisal conducted pursuant to Section 1348.2. The appraisal shall also consider and describe all the specific requirements and restrictions of relevant state and federal laws, including, but not limited to, the McAteer-Petris Act (Title 7.2 (commencing with Section 66600) of the Government Code), related to the property value and development potential of lands considered for acquisition in the shoreline band of the San Francisco Bay area.

(2) The board has determined any of the following:

(A) Funds are available to implement the recommendations and objectives of the Goals Report for a significant portion of the property to be acquired by the board.

(B) Sufficient funding and authority exists for the long-term maintenance of all levees and dikes and all other land-use management requirements necessary to avoid environmental degradation for the property proposed to be acquired by the board.

(C) The property to be acquired by the board has no unique long-term maintenance requirements or has no land-use management requirements necessary to avoid environmental degradation.

(3) If the board determines to acquire all or a portion of the Cargill property, a matching federal appropriation for the acquisition of the Cargill property shall be deposited into an account solely for the acquisition of the Cargill property or a portion thereof.

(4) The board has consulted with the State Coastal Conservancy and determined that the proposed acquisition is consistent with most of the goals of the San Francisco Bay Area Conservancy Program, as described in Section 31162 of the Public Resources Code.

(5) The acquisition of the property will not result in any liability to the state for the cleanup of hazardous materials.

(c) ''Cargill property,'' for purposes of this section, means all property owned by the Cargill Salt Division that Cargill proposes to sell to the state and federal governments.

SEC. 3. The Controller shall transfer the sum of thirty million dollars ($30,000,000) from the General Fund to the San Francisco Baylands Restoration Program Account. This amount is hereby appropriated from that account to the Wildlife Conservation Board for expenditure to implement the recommendations and objectives of the Baylands Ecosystem Habitat Goals Report, as described in Section 1. If the board determines to purchase the Cargill property, the balance of the purchase price shall be provided by a combination of state and local funds.

CHAPTER 396

An act to amend Sections 63.6, 668.1, and 668.2 of, and to add Section 668.3 to, the Harbors and Navigation Code, relating to boating.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 63.6 of the Harbors and Navigation Code is amended to read:

63.6. (a) (1) On or before January 15 of each odd-numbered year, the director shall make a report to the commission, the Legislature, and the Governor covering the operations of the department for the preceding biennium.

(2) With respect to Article 5 (commencing with Section 76), the report shall include all of the following:

(A) The total amount of loans made in each of the two fiscal years immediately preceding the preparation and submission of the report.

(B) For each recipient of a loan during each of the two fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(C) The financial status of each loan.

(D) Any legislative recommendations.

(3) The report shall also include the status of the department's activities related to the monitoring of rates pursuant to Section 71.4 and subdivision (d) of Section 76.7.

(4) The report shall also include an evaluation of the public participation in the personal watercraft education course developed by the department pursuant to subdivision (b) of Section 668.3 and a determination of the effect of the course on personal watercraft safety in California.

(b) The department shall also make any special reports that are requested by the Secretary of Resources or the Governor.

SEC. 2. Section 668.1 of the Harbors and Navigation Code is amended to read:

668.1. (a) Any person convicted of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of this code, or of Section 655.2, 655.6, 658, or 658.5 of this code, or of Section 191.5 of the Penal Code, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

(c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in Section 668.3, prescribing the forms for proof of completion and

passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

SEC. 3. Section 668.2 of the Harbors and Navigation Code is amended to read:

668.2. The department may grant funds from the Harbors and Watercraft Revolving Fund to local public agencies, nonprofit organizations, and colleges and universities for scholarship funding relating to boating safety education, to finance the purchase of vessels and related safety equipment for use in boating safety education classes, and to provide voluntary personal watercraft education course materials developed by the department pursuant to subdivision (b) of Section 668.3 in those situations where the department determines the course would not otherwise be available to a significant number of personal watercraft operators. The department shall adopt regulations necessary to implement this section.

SEC. 4. Section 668.3 is added to the Harbors and Navigation Code, to read:

668.3. (a) For the purposes of Section 668.1, the department shall approve boating safety courses that it determines provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate recreational vessels, and actions that can be taken to avoid boating-related environmental pollution.

(b) The department shall develop a personal watercraft education course that provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate personal watercraft, and actions that can be taken to avoid personal watercraft-related environmental pollution. The course shall be voluntary and shall be made available to groups, individuals, and clubs. The course shall be made available on the department's website and may be made available in other formats, as determined by the department. The department shall consult with the California State Sheriff's Association in developing the course and making it available on the Internet.

CHAPTER 397

An act to amend Section 40703 of, and to add Section 39702.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 39702.5 is added to the Health and Safety Code, to read:

39702.5. (a) The state board, in consultation with the advisory committee established pursuant to subdivision (e), shall investigate and provide a report to the Legislature by January 1, 2002, on all of the following matters with regard to emissions abatement equipment required by the San Joaquin Valley Unified Air Pollution Control District with respect to primarily seasonal sources from steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements:

(1) The average useful life of emissions abatement equipment utilized to meet "best available control technology" (BACT), as defined in Section 40405, or "best available retrofit control technology" (BARCT), as defined in Section 40406. This assessment shall be based on projections provided by the district, the experience of source operators, and representations made by manufacturers of the equipment.

(2) The implications of imposing additional requirements on emission sources already controlled to BACT and BARCT levels, accounting for the costs of, and the emission reductions attributable to, previous BACT and BARCT controls.

(3) The average, actual, and historical costs, for a representative number of sources of steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements of complying with those requirements, and a comparison of those costs to estimates utilized by the district in the development of those requirements.

(4) The implications of applying incremental cost effectiveness thresholds to sources that are subject to BACT and BARCT requirements, and the implications of applying these thresholds for the development of future BACT and BARCT requirements.

(b) The investigation required by this section shall include only the sources of oxides of nitrogen (NO_x) controlled by BACT and BARCT requirements in the district described in subdivision (a).

(c) The report required by subdivision (a) shall take into account air quality and public health considerations, as well as factors such as growth, interbasin transport of air pollutants from other regions, and other factors deemed appropriate by the state board. The report shall also specifically take into account the operation of seasonal sources, safety issues, energy efficiency, capital costs, operational and maintenance

costs, and the implications of potential catastrophic events on sources. The state board shall also consider any other factors deemed appropriate by the advisory committee appointed pursuant to subdivision (e). The advisory board, if it deems appropriate, may recommend that the state board also consider including stationary internal combustion engines in the report, if the advisory board also determines that the inclusion of stationary internal combustion engines would not significantly expand the scope of the report.

(d) The state board shall have the final determination of the scope of the investigation and the report required by this section.

(e) The state board shall appoint an advisory committee to assist the state board in, and to provide advice on, the investigation conducted and the report prepared pursuant to subdivision (a). To the extent practicable, this advisory committee shall include representatives from all of the following:

(1) The district.

(2) Environmental organizations.

(3) Stationary source related organizations.

(4) Seasonal stationary source related organizations.

(5) Agricultural interests.

(6) A representative of the United States Environmental Protection Agency shall be invited to participate.

(7) Any other entity or organization the state board deems appropriate.

(f) The principal purpose of the report required by subdivision (a) is to provide a basis for evaluating the cost effectiveness, safety, and related matters associated with air pollution control technologies in the San Joaquin Valley.

SEC. 2. Section 40703 of the Health and Safety Code is amended to read:

40703. In adopting any regulation, the district shall consider, pursuant to Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. A district shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals.

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 398

An act to amend Sections 651 and 658.3 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 8, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 651 of the Harbors and Navigation Code is amended to read:

651. As used in this chapter, unless the context clearly requires a different meaning:

(a) ''Alcohol'' means any form or derivative of ethyl alcohol (ethanol).

(b) ''Alcohol concentration'' means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) ''Associated equipment'' means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(d) ''Boat'' means any vessel that is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(e) ''Chemical test'' means a test that analyzes an individual's breath, blood, or urine, for evidence of drug or alcohol use.

(f) ''Controlled substance'' means controlled substance as defined in Section 11007 of the Health and Safety Code.

(g) ''Department'' means the Department of Boating and Waterways.

(h) ''Director'' means the Director of Boating and Waterways.

(i) ''Drug'' means any substance or combination of substances other than alcohol that could so affect the nervous system, brain, or muscles of a person as to impair to an appreciable degree his or her ability to operate a vessel in the manner that an ordinarily prudent person, in full possession of his or her faculties, using reasonable care, would operate a similar vessel under like conditions.

(j) ''Intoxicant'' means any form of alcohol, drug, or combination thereof.

(k) ''Legal owner'' is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district, or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(*l*) ''Manufacturer'' means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

(m) ''Marine employer'' means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

(n) ''Motorboat'' means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel that has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(o) ''Operator'' means the person on board who is steering the vessel while underway.

(p) ''Owner'' is a person having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. ''Owner'' does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(q) ''Passenger'' means every person carried on board a vessel other than any of the following:

(1) The owner or his or her representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his or her carriage.

(r) ''Person'' means an individual, partnership, firm, corporation, limited liability company, association, or other entity, but does not include the United States, the state, or a municipality or subdivision thereof.

(s) ''Personal watercraft'' means a vessel 13 feet in length or less, propelled by machinery, that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(t) ''Recreational vessel'' means a vessel that is being used only for pleasure.

(u) ''Registered owner'' is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(v) ''Special-use area'' means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

(w) ''State'' means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(x) ''State of principal use'' means the state on which waters a vessel is used or intended to be used most during a calendar year.

(y) ''Undocumented vessel'' means any vessel that is not required to have, and does not have, a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(z) ''Use'' means operate, navigate, or employ.

(aa) ''Vessel'' includes every description of watercraft used or capable of being used as a means of transportation on water, except either of the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

(bb) ''Water skis, an aquaplane, or a similar device'' includes all forms of water skiing, barefoot skiing, skiing on skim boards, knee

boards, or other contrivances, parasailing, ski kiting, or any activity where a person is towed behind or alongside a boat.

(cc) ''Waters of this state'' means any waters within the territorial limits of this state.

SEC. 2. Section 658.3 of the Harbors and Navigation Code is amended to read:

658.3. (a) No person shall operate a motorboat, sailboat, or vessel that is 26 feet or less in length unless every person on board who is 11 years of age or less is wearing a type I, II, III, or V Coast Guard-approved personal flotation device while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is 11 years of age or less is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is 11 years of age or less is in an enclosed cabin.

(c) Any person on board a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device shall wear a type I, II, III, or V Coast Guard-approved personal flotation device.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that person is a performer engaged in a professional exhibition, or preparing to participate or participating in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a Coast Guard-approved personal flotation device of a type described in this subdivision, any person engaged in slalom skiing on a marked course or any person engaged in barefoot, jump, or trick water skiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A Coast Guard-approved personal flotation device of a type described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) Subdivisions (a) and (c) do not apply to a person operating a motorboat, sailboat, or vessel if the operator is reacting to an emergency rescue situation.

(e) The following definitions govern the construction of this section:

(1) ''Enclosed cabin'' means a space on board a vessel that is surrounded by bulkheads and covered by a roof.

(2) ''Operate a motorboat, sailboat, or vessel'' means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) ''Underway'' means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(f) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.

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 399

An act to amend Section 1202.5 of the Penal Code, relating to fines.

[Approved by Governor September 10, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 1202.5 of the Penal Code is amended to read:

1202.5. (a) In any case in which a defendant is convicted of any of the offenses enumerated in Section 211, 215, 459, 470, 484, 487, 488, or 594, the court shall order the defendant to pay a fine of ten dollars ($10) in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes 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 other fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) (1) All fines collected pursuant to this section shall be held in trust by the county collecting them, until transferred to the local law enforcement agency to be used exclusively for the jurisdiction where the offense took place. All moneys collected shall implement, support, and continue local crime prevention programs.

(2) All amounts collected pursuant to this section shall be in addition to, and shall not supplant funds received for crime prevention purposes from other sources.

(c) As used in this section, ''law enforcement agency'' includes, but is not limited to, police departments, sheriffs departments, and probation departments.

CHAPTER 400

An act to amend Section 12021 of the Penal Code, relating to firearms.

[Approved by Governor September 10, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under

his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense

specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000),

or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, Section 136.2, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or

receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from owning or possessing a firearm by the provisions of a protective order as defined in Section 6218 of the Family Code, Section 136.2 of the Penal Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless a copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from owning or possessing or attempting to own or possess a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 1.5. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and

the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is

subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, Section 136.2, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(2) Every person who possesses a firearm knowing that he or she is prohibited from possessing a firearm by the provisions of a protective order as defined in Section 6218 of the Family Code, Section 136.2 of the Penal Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment

in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless a copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from possessing or attempting to possess a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(3) The Judicial Council shall provide notice on all protective orders that the respondent is prohibited from possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and SB 31. 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 12021 of the

Penal Code, and (3) this bill is enacted after SB 31, in which case Section 1 of this bill shall not become operative.

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

CHAPTER 401

An act to amend Section 14601.9 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 2000. Filed with Secretary of State September 11, 2000.]

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

SECTION 1. Section 14601.9 of the Vehicle Code is amended to read:

14601.9. (a) The district attorney of the County of Alameda, Kern, Los Angeles, Orange, Placer, Sacramento, San Joaquin, San Luis Obispo, or Santa Barbara, with the approval of the board of supervisors, may establish a pilot program for persons who plead guilty or no contest or who are found guilty of a violation of Section 14601, 14601.1, or 14601.3. The district attorney may conduct the program or contract with a private entity to conduct the program.

(b) Subject to the approval of the court, a person who pleads guilty or no contest to a violation of, or is convicted of a violation of, Section 14601, 14601.1, or 14601.3 may enter into a written agreement with the district attorney of a county described in subdivision (a). If the court determines that the particular case is appropriate for referral to the program described in this section, the judge may make an order directing the person to comply with the terms of the agreement. Participation in the program shall be in lieu of imposing a jail sentence under Section 14601, 14601.1, or 14601.3. The agreement shall require the person to complete all of the following elements within 60 days or within the term of the maximum jail sentence allowed under Section 14601, 14601.1, or 14601.3, whichever period is longer:

(1) A home detention program utilizing an electronic monitoring program and equipment that meets acceptable standards as described in Section 1203.016 of the Penal Code, for not less than the minimum jail sentence, and not more than the maximum jail sentence, provided under Section 14601, 14601.1, or 14601.3, as applicable. The electronic monitoring program described in this paragraph shall be provided under the auspices of the district attorney or his or her designee. The court may allow a person to attend school, work, or other specified activities while on electronic monitoring.

(2) One or more classes conducted by the district attorney or by a private entity under contract with the district attorney. The class or classes, at a minimum, shall provide instruction on all of the following:

(A) The requirements imposed under Section 14601, 14601.1, or 14601.3, including, but not limited to, the penalties for violating those provisions.

(B) Available transportation alternatives for persons who do not have a valid driver's license.

(C) The procedure for regaining the privilege to drive.

(c) No statement, or information procured from a statement, made by the person in connection with the determination of his or her eligibility for the program, and no statement, or information procured from a statement, made by the person, subsequent to the granting of the program or while participating in the program, and no information contained in any report made with respect thereto, and no statement or other information concerning the person's participation in the program is admissible in any action or proceeding.

(d) The court may impose any fine allowed under Section 14601, 14601.1, or 14601.3 upon a person who is ordered to participate in the program.

(e) (1) The district attorney may recover fees for the program from participants or may provide for recovery of fees from participants by a private entity operating the program under contract.

(2) The recoverable fees described in this subdivision shall be charged to the participant in accordance with a fee schedule that has been approved by the board of supervisors or the district attorney, or designee of the district attorney. The fees charged for the program may be modified or waived by the district attorney or designee at any time based on the present or changing financial position of the participant. No person shall be denied participation in the program due to an inability to pay for the program.

(f) Not later than December 31, 2003, the district attorney of every county that elects to participate in the pilot program specified in subdivision (a) shall prepare and submit a report to the Legislature concerning that county's participation in the program.

(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends that date.

CHAPTER 402

An act to amend Section 1094.5 of the Code of Civil Procedure, to add Sections 22508.6, 22717.5, and 22801.5 to the Education Code, to amend Sections 18670, 19175, 19582, 19816.20, 19876.5, 20395, 20405.1, 21159, 21160, 21161, 21195, and 22825.01 of, to add Sections 19576.6, 20309.5, and 20407.5 to, and to repeal Section 22754.2 of, the Government Code, and to amend Section 10295 of the Public Contract Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 11, 2000.]

On this date I have signed AB 649 with a reduction.

This bill would appropriate funding for various programs agreed to during collective bargaining. However, the appropriation in this bill for the special fund deficiency is in excess of the amount needed to fund the employee compensation increases agreed to through collective bargaining. Therefore, I am reducing the special fund appropriation contained in this bill by $17,000,000 to reflect the actual amount needed to fund the employee compensation increases. The revised appropriation shall be $30,600,000.

GRAY DAVIS, Governor

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

SECTION 1. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Section 68511.3 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to

a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to The Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code or governing bodies of municipal hospitals 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 the Government Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the

evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the

public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency that issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (b) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. This subdivision shall apply to state employees in State Bargaining Unit 8. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 or 19576.5 of the Government Code.

(k) This section shall not apply to state employees in State Bargaining Unit 11 disciplined or rejected on probation for positive drug test results who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a State Bargaining Unit 11 collective bargaining agreement.

SEC. 2. Section 22508.6 is added to the Education Code, to read:

22508.6. (a) Any person who is a member of the Defined Benefit Program and who subsequently became employed and continues to be employed by the state to perform service that requires membership in the Public Employees' Retirement System and who meets the requirements of subdivision (b) may elect to have that state service subject to coverage by the Defined Benefit Program and excluded from coverage by the Public Employees' Retirement System.

(b) (1) Only a person who has achieved program vesting shall be eligible to make the election under this section.

(2) A person is eligible to make the election if he or she left employment with a school district, county superintendent of schools, or community college district and began employment with the state within 30 days without any intervening employment and that change in employment occurred on or after July 1, 1991, and prior to the effective date of this section.

(3) A person is eligible to make the election if, at the time of the election, he or she is a member of the Public Employees' Retirement System subject to Second Tier benefits and is one of the following:

(A) Represented by a State Bargaining Unit that has agreed by a memorandum of understanding to become subject to Section 20309.5 of the Government Code.

(B) Excluded from the definition of ''state employee'' in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in subparagraph (A).

(C) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in subparagraph (A).

(c) The election under this section shall be made in writing to each system within 90 days after the effective date of this section or within 60 days after the eligible member is notified by the system of his or her right to make the election, whichever is later. The member's election shall be effective on the day following the date on which the election is received by the Public Employees' Retirement System.

(d) If the election is made, the state service performed from and after the date of the election shall be considered creditable service for purposes of this part and the provisions of Section 22801.5 shall be applicable with respect to service performed prior to that date.

SEC. 3. Section 22717.5 is added to the Education Code, to read:

22717.5. (a) A member shall be credited at service retirement for each day of accumulated and unused leave of absence for education for which full salary is allowed on the member's final day of employment with the state.

(b) The amount of service credit to be granted shall be 0.004 years of service for each unused day of educational leave credit.

(c) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retirement, the number of days of accumulated and unused leave of absence for education that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(d) This section shall apply to eligible state employees in state bargaining units that have agreed to this section in a memorandum of understanding, or as authorized by the Director of the Department of Personnel Administration for classifications of state employees that are excluded from the definition of ''state employee'' by paragraph (c) of Section 3513 of the Government Code.

(e) The provisions of this section shall be effective for eligible members who retire directly from state employment on or after January 1, 2000.

SEC. 4. Section 22801.5 is added to the Education Code, to read:

22801.5. (a) A member who elects pursuant to Section 22508.6 to have his or her state service subject to coverage by the Defined Benefit Program shall receive additional service credit for the time spent subject to coverage by the Public Employees' Retirement System between July 1, 1991, and the effective date of the election.

(b) A member described in subdivision (a) shall pay all contributions with respect to his or her state service as a member of the Public Employees' Retirement System at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect at the time of the election. Contributions shall be made in a lump sum or in not more than 120 monthly installments. Payment shall be made or shall commence within 120 days after the date of the election. No installment, except the final installment, shall be less than twenty-five dollars ($25). The member shall not be credited with any service pursuant to this section until the contributions have been paid in full.

(c) If the member is employed to perform creditable service at the time of the election, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(d) If the member is not employed to perform creditable service at the time of the election, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest.

(e) The total amount of contributions due from the member under subdivision (b) shall be reduced by the amount received from the Public Employees' Retirement System pursuant to Section 20309.5 of the

Government Code. Under no circumstances shall the assets received from the Public Employees' Retirement System, pursuant to that section, be allocated or awarded to individual members or their spouses or beneficiaries.

SEC. 5. Section 18670 of the Government Code is amended to read:

18670. (a) The board may hold hearings and make investigations concerning all matters relating to the enforcement and effect of this part and rules prescribed under this part. It may inspect any state institution, office, or other place of employment affected by this part to ascertain whether this part and the board rules are obeyed.

The board shall make investigations and hold hearings at the direction of the Governor or the Legislature or upon the petition of an employee or a citizen concerning the enforcement and effect of this part and to enforce the observance of Article VII of the Constitution and of this part and the rules made under this part.

(b) Effective January 1, 1996, this subdivision shall apply only to state employees in State Bargaining Unit 5. For purposes of subdivision (a), any discipline, as defined by Section 19576.1, is not subject to either a board investigation or hearing. Board review shall be limited to acceptance or rejection of discipline imposed pursuant to Section 19576.1.

(c) This subdivision shall apply only to state employees in State Bargaining Unit 8. For the purposes of subdivision (a), any discipline, as defined by the memorandum of understanding or Section 19576.5, is not subject to either a board investigation or hearing.

(d) This subdivision shall apply only to state employees in State Bargaining Unit 11 who have been disciplined or rejected on probation for positive drug test results and who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a collective bargaining agreement. For purposes of subdivision (a) and in the context of positive drug test results, any discipline, as defined by the memorandum of understanding, and rejections on probation are not subject to either a board investigation or a hearing.

SEC. 6. Section 19175 of the Government Code is amended to read:

19175. The board at the written request of a rejected probationer, filed within 15 calendar days of the effective date of rejection, may investigate with or without a hearing the reasons for rejection. After investigation, the board may do any of the following:

(a) Affirm the action of the appointing power.

(b) Modify the action of the appointing power.

(c) Restore the name of the rejected probationer to the employment list for certification to any position within the class; provided, that his or her name shall not be certified to the agency by which he or she was

rejected, except with the concurrence of the appointing power of that agency.

(d) Restore him or her to the position from which he or she was rejected, but this shall be done only if the board determines, after a hearing, that there is no substantial evidence to support the reason or reasons for rejection, or that the rejection was made in fraud or bad faith. At the hearing, the rejected probationer shall have the burden of proof. Subject to rebuttal by the rejected probationer, it shall be presumed that the rejection was free from fraud and bad faith and that the statement of reasons therefor in the notice of rejection is true.

(e) Effective January 1, 1996, this section shall not apply to state employees in State Bargaining Unit 5.

(f) Except as provided in subdivision (g), this section shall not apply to state employees in State Bargaining Unit 11 who have been rejected on probation for positive drug test results and who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a collective bargaining agreement.

(g) Whenever a written request is made under this section by a probationer in State Bargaining Unit 11 who has been rejected for positive drug test results and the memorandum of understanding for employees in State Bargaining Unit 11 has expired, the state employer shall follow the appeal procedures contained in the expired memorandum of understanding for state employees in State Bargaining Unit 11 until a successor agreement is negotiated between the Department of Personnel Administration and the exclusive representative.

SEC. 7. Section 19576.6 is added to the Government Code, to read:

19576.6. This section shall apply only to state employees in State Bargaining Unit 11 who have been disciplined for positive drug test results and who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a collective bargaining agreement.

(a) Notwithstanding Section 19576, the State Personnel Board shall not have the authority stated in subdivision (a) of that section.

(b) Whenever an answer is filed by an employee and the memorandum of understanding for employees in State Bargaining Unit 11 has expired, the state employer shall follow the appeal procedures contained in the expired memorandum of understanding for state employees in State Bargaining Unit 11 until a successor agreement is negotiated between the Department of Personnel Administration and the exclusive representative.

(c) Notwithstanding any other law or rule, if the provisions of this section are in conflict with the provisions of the 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 the 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. 8. Section 19582 of the Government Code is amended to read:

19582. (a) Hearings may be held by the board, or by any authorized representative, but the board shall render the decision that in its judgment is just and proper.

During a hearing, after the appointing authority has completed the opening statement or the presentation of evidence, the employee, without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal of the charges.

If it appears that the evidence presented supports the granting of the motion as to some but not all of the issues involved in the action, the board or the authorized representative shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of the motion, no judgment shall be entered prior to a final determination of the action on the remaining issues, and shall be subject to final review and approval by the board.

(b) If a contested case is heard by an authorized representative, he or she shall prepare a proposed decision in a form that may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the board as a public record and furnished to each party within 10 days after the proposed decision is filed with the board. The board itself may adopt the proposed decision in its entirety, may remand the proposed decision, or may reduce the adverse action set forth therein and adopt the balance of the proposed decision.

(c) If the proposed decision is not remanded or adopted as provided in subdivision (b), each party shall be notified of the action, and the board itself may decide the case upon the record, including the transcript, with or without taking any additional evidence, or may refer the case to the same or another authorized representative to take additional evidence. If the case is so assigned to an authorized representative, he or she shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the proposed decision shall be furnished to each party. The board itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present oral and written argument before the board itself. If additional oral evidence is introduced before the board itself, no board member may vote unless he or she heard the additional oral evidence.

(d) In arriving at a decision or a proposed decision, the board or its authorized representative may consider any prior suspension or

suspensions of the appellant by authority of any appointing power, or any prior proceedings under this article.

(e) The decision shall be in writing and contain findings of fact and the adverse action, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be served on the parties personally or by mail.

(f) This section shall not apply to minor discipline, as defined in a memorandum of understanding or by Section 19576.5, for state employees in State Bargaining Unit 8.

(g) This section shall not apply to state employees in State Bargaining Unit 11 who have been disciplined for positive drug test results and who expressly waive appeal to the State Personnel Board and invoke arbitration proceedings pursuant to a collective bargaining agreement.

SEC. 9. Section 19816.20 of the Government Code is amended to read:

19816.20. Notwithstanding Section 18717, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of ''state employee'' in paragraph (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

(a) The department shall determine which classes or positions meet the elements of the criteria for the state safety category of membership in the Public Employees' Retirement System. An employee organization or employing agency requesting a determination from the department shall provide the department with information and written argument supporting the request.

(b) The department may use the determination findings in subsequent negotiations with the exclusive representatives.

(c) The department shall not approve safety membership for any class or position that has not been determined to meet all of the following criteria:

(1) In addition to the defined scope of duties assigned to the class or position, the member's ongoing responsibility includes:

(A) The protection and safeguarding of the public and of property.

(B) The control or supervision of, or a regular, substantial contact with one of the following:

(i) Inmates or youthful offenders in adult or youth correctional facilities.

(ii) Patients in state mental facilities that house Penal Code offenders.

(iii) Clients charged with a felony who are in a locked and controlled treatment facility of a developmental center.

(2) The conditions of employment require that the member be capable of responding to emergency situations and provide a level of service to the public such that the safety of the public and of property is not jeopardized.

(d) For classes or positions that are found to meet this criteria, the department may agree to provide safety membership by a memorandum of understanding reached pursuant to Section 3517.5 if the affected employees are subject to collective bargaining, or by departmental approval for state employees who are either excluded from the definition of ''state employee'' in subdivision (c) of Section 3513 or are officers or employees of the executive branch of state government who are not members of the civil service. The department shall notify the retirement system of its determination, as prescribed in Section 20405.1.

(e) The department shall provide the Legislature an annual report that lists the classes or positions which were found to be eligible for safety membership under this section.

SEC. 10. Section 19876.5 of the Government Code is amended to read:

19876.5. State employees in state bargaining units 1, 4, 15, 18, and 20 who suffer a job-related injury or illness and become eligible for vocational rehabilitation under Section 139.5 of the Labor Code on or after January 1, 1993, shall first be subject to an evaluation to determine what type of state employment can be performed. The evaluation shall include vocational rehabilitation when deemed appropriate, based on a medical evaluation and previous experience. Disability benefits shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan necessary to continue state employment. This section shall not apply to any job-related or job-incurred injury or illness that occurs on or after January 1, 2000.

SEC. 11. Section 20309.5 is added to the Government Code, to read:

20309.5. (a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement Plan and who subsequently became employed, on or after July 1, 1991, and who continues to be employed by the state to perform service that requires membership in the Public Employees' Retirement System under Section 21071 and who meets the requirements of subdivision (b) of Section 22508.6 of the Education Code may elect to have his or her state service subject to coverage by the Defined Benefit Program of the State Teachers' Retirement Plan and excluded from coverage by the Public Employees' Retirement System.

(b) Upon an election being made pursuant to subdivision (a), the Public Employees' Retirement System shall transfer to the Teachers' Retirement Fund an amount equal to the actuarial accrued liability of the

system for the service rendered by the person making the election on or after July 1, 1991, to the date of the election, inclusive. The actuarial accrued liability shall be calculated based on the actuarial assumptions of the system for the most recently completed actuarial valuation as of the date of the election.

SEC. 12. 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.

SEC. 13. Section 20405.1 of the Government Code is amended to read:

20405.1. Notwithstanding Section 20405, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of ''state employee'' by subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Personnel Administration agrees to their inclusion. For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees' exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5. For employees not covered by a collective bargaining agreement, the Department of Personnel Administration shall determine the effective date of safety membership.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(c) The department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(d) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21076, 21353, or 21354.1, as applicable, only for service also included in the federal system.

SEC. 14. Section 20407.5 is added to the Government Code, to read:

20407.5. (a) Notwithstanding Section 20407, any person designated as a state safety member pursuant to Section 20407 who elected to remain subject to the miscellaneous service retirement benefit and contribution rate as provided in that section may elect instead to be subject to the state safety service retirement benefit and contribution rate.

(b) This section shall apply to those officers and employees of the State Department of Mental Health described in Section 20407 who are represented by State Bargaining Unit 18 and who became safety members effective January 1, 1998, when the Napa State Hospital and the Metropolitan State Hospital were designated as forensic facilities.

(c) This section shall also apply to any member who is excluded from the definition of state employee in subdivision (c) of Section 3513 and who is directly associated with employees represented by State Bargaining Unit 18.

(d) The election provided under this section shall be filed with the board by the member within 90 days after notification by the board that the member has the right to elect to be subject to the state safety member service retirement formula and contribution rates. If the election is not made by the member, he or she shall remain subject to the miscellaneous service retirement benefit and contribution rate.

SEC. 15. Section 21159 of the Government Code is amended to read:

21159. (a) Notwithstanding any other provision of law, a state member shall not be retired for industrial disability for an illness or injury that occurs on or after January 1, 1993, unless the member is incapacitated for the performance of duty in any employment with the state employer and the disability is of permanent or extended and uncertain duration, as determined by the Department of Personnel Administration. This section shall only apply to state safety, state

industrial, and state miscellaneous members employed in any state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. The Director of the Department of Personnel Administration may adopt rules regarding job placement and other related activities necessary for the administration of this section and Section 21195.

(b) A state member who, because of the enactment of this section is no longer eligible to retire for industrial disability and accepts alternate employment with the state in which the compensation is less than that received in the position held at the time of the illness or injury, shall, upon certification of the Department of Personnel Administration to the board, become entitled to benefits under the partial disability retirement program set forth in Section 21160.

(c) The employee shall have the right of appeal to the Department of Personnel Administration regarding: (1) the requirement to participate or (2) the exclusion from participating in the program described in this section and Section 21160.

(d) For all other disputes relative to this section and Section 21160, the employee shall seek administrative remedy from his or her appointing power through the departmental complaint process.

(e) The appointing power of the affected employee shall reimburse the Department of Personnel Administration for any costs associated with the administration of this provision.

(f) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

SEC. 16. Section 21160 of the Government Code is amended to read:

21160. (a) Any state member who is subject to Section 21159 and does not qualify for industrial disability retirement under this part, or is reinstated from industrial disability retirement pursuant to Section 21195, and accepts another job in state service, shall be paid a partial disability retirement program benefit payment from this system in an amount, to be calculated by the Department of Personnel Administration and certified to the board, that, when added to the salary earned by the employee in the current state position, would be equal to the state salary earned by the member at the time of becoming unable to perform the duties of his or her previous position. This supplemental payment shall not result in the member being deemed to be retired.

(b) The partial disability retirement program benefit payments made under this section shall be paid for by the state employer in the same manner as all other state retirement benefits are funded.

(c) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

SEC. 17. Section 21161 of the Government Code is amended to read:

21161. (a) A partial disability retirement program is established by Section 21160 for state employees subject to Section 21159. The benefits paid under this program shall be paid pursuant to Sections 21159 and 21160 and shall not be considered compensation for purposes of Section 20630.

(b) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

SEC. 18. Section 21195 of the Government Code is amended to read:

21195. (a) Notwithstanding any other section in Article 6 (commencing with Section 21150) or in this article, the Department of Personnel Administration may reinstate a person who has retired for industrial disability pursuant to Section 21410, within 12 months after the effective date of retirement, if it has identified an available position with duties that the employee is able to perform. Upon reinstatement, the person shall become entitled to benefits under the partial disability retirement program pursuant to Section 21160.

(b) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

SEC. 19. Section 22754.2 of the Government Code, as added by Chapter 91 of the Statutes of 1998, is repealed.

SEC. 20. 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) ''Program'' means the Rural Health Care Equity Program.

(b) (1) The Rural Health Care Equity Program is hereby established for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care costs, which would otherwise be covered if the state employee or annuitant was enrolled in a board-approved health maintenance

organization plan, paid by employees and annuitants living in rural areas, as authorized by this section. The program 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. The board shall determine the rural area for each subsequent fiscal year at the same meeting when the board approves premiums for health maintenance organizations.

(2) Separate accounts shall be maintained within the program 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 Program shall be allocated to the separate accounts as follows:

(1) As the employer's contribution with respect to each employee, as defined in subdivision (c) of Section 3513, who lives in a rural area and who is otherwise eligible, an amount to be determined through the collective bargaining process.

(2) As the employer's contribution with respect to each excluded employee, as defined in subdivision (b) of Section 3527, who lives in a rural area and who is otherwise eligible, an amount equal to, but not to exceed, the amount given to eligible state employees, as defined in subdivision (c) of Section 3513, who live in a rural area.

(3) As the employer's contribution with respect to each annuitant, as defined in subdivision (e) of Section 22754, who lives in a rural area, is not a Medicare participant, and who is otherwise eligible, an amount not to exceed five hundred dollars ($500) per year.

(4) As to the state's contribution with respect to each state annuitant, as defined in subdivision (e) of Section 22754 who lives in a rural area, participates in a board-approved, Medicare-coordinated health plan, participates in a board-approved health plan, and is otherwise eligible, an amount equal to the Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five dollars ($75) per month. The state shall not reimburse for penalty amounts.

(5) As to an employee who enters state service or leaves state service during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit, including a person who enters the bargaining unit by promotion in mid-fiscal year.

(d) Each fund of the State Treasury, other than the General Fund, shall reimburse the General Fund for any sums allocated pursuant to subdivision (c) for employees whose compensation is paid from that fund. That reimbursement shall be accomplished using the following methodology:

(1) On or before December 1 of each year, the Department of Personnel Administration shall provide a listing of active state employees who participated in the Rural Health Care Equity Program in the immediately preceding fiscal year to each employing department.

(2) On or before January 15 of each year, every department that employed an active state employee identified by the Department of Personnel Administration as a participant in the Rural Health Care Equity Program shall provide the Department of Personnel Administration with a listing of the funds used to pay each employee's salary, along with the proportion of each active state employee's salary attributable to each fund.

(3) Using the information provided by the employing departments, the Department of Personnel Administration shall compile a listing of Rural Health Care Equity Program payments attributable to each fund. On or before February 15 of each year, the Department of Personnel Administration shall transmit this list to the Department of Finance.

(4) The Department of Finance shall certify to the Controller the amount to be transferred from the unencumbered balance of each fund to the General Fund.

(5) The Controller shall transfer to the General Fund from the unencumbered fund balance of each impacted fund the amount specified by the Department of Finance.

(6) To ensure the equitable allocation of costs, the Director of the Department of Personnel Administration or the Director of Finance may require an audit of departmental reports.

(e) For any sums allocated pursuant to subdivision (c) for annuitants, funds, other than the General Fund, shall be charged a fair share of the state's contribution in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3 of Title 2. On or before July 31 of each year, the Department of Personnel Administration shall provide the Department of Finance with the total costs allocated pursuant to subdivision (c) for annuitants in the immediately preceding fiscal year. The reported costs shall not include expenses that have been incurred but not claimed as of July 31.

(f) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the Rural Health Care Equity Program shall be disbursed for the benefit of an employee who lives in a rural area and who is otherwise eligible. The disbursements shall, where there is no board-approved health maintenance organization plan available in an area that is open for enrollment for the employee, (1) subsidize the preferred provider plan premiums for the employee, by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under

this part and (2) reimburse the employee for a portion or all of his or her incurred deductibles, coinsurances, and other out-of-pocket health-related expenses, 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, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(g) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the Rural Health Care Equity Program 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.

(h) Any moneys remaining in any account of the program 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 program upon termination, after payment of all outstanding expenses and claims incurred prior to the date of termination, shall be deposited in the General Fund.

(i) The Legislature finds and declares that the Rural Health Care Equity Program is established for the exclusive benefit of employees, annuitants, and family members.

(j) 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. 21. Section 10295 of the Public Contract Code is amended to read:

10295. (a) All contracts entered into by any state agency for (1) the acquisition of goods or elementary school textbooks, (2) services, whether or not the services involve the furnishing or use of goods or are performed by an independent contractor, (3) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (4) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until

approved by the department. Every contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval.

(b) This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section.

(c) This section does not apply to the following:

(1) Any transaction entered into by the Trustees of the California State University or by a department under the State Contract Act or the California State University Contract Law.

(2) Any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code.

(3) Any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources.

(4) Any contract entered into by the Department of Personnel Administration for state employee benefits, occupational health and safety, training services, or combination thereof.

(5) Any contract let by the Legislature.

(6) Any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 21.5. Section 10295 of the Public Contract Code is amended to read:

10295. (a) All contracts entered into by any state agency for (1) the acquisition of goods or elementary school textbooks, (2) services, whether or not the services involve the furnishing or use of goods or are performed by an independent contractor, (3) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (4) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval.

(b) This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section.

(c) This section does not apply to the following:

(1) Any transaction entered into by the Trustees of the California State University, by the Board of Governors of the California Community Colleges, or by a department under the State Contract Act or the California State University Contract Law.

(2) Any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code.

(3) Any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources.

(4) Any contract entered into by the Department of Personnel Administration for state employee benefits, occupational health and safety, training services, or combination thereof.

(5) Any contract let by the Legislature.

(6) Any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 22. The Legislature hereby declares its intent that Sections 19876.5, 21159, 21160, 21161, and 21195 of the Government Code, as amended by this act, shall be given retroactive effect to January 1, 2000.

SEC. 23. The sum of sixty-five million four hundred fourteen thousand two hundred eighty-eight dollars ($65,414,288) is hereby appropriated as follows:

(a) Five million dollars ($5,000,000) from the General Fund to the Controller for allocation to the Work and Family Fund, a continuously appropriated fund, for expenditure by the Department of Personnel Administration for the purposes of establishing and maintaining work and family programs for state employees. These programs may include, but are not limited to, financial assistance to aid in the development of child care centers administered by either nonprofit corporations formed by state employees or child care providers, or to provide grants, subsidies, or both grants and subsidies for child care and elder care. Other programs may include enhancement or supplementation of existing employee assistance program services and other work and family programs.

(b) Forty-seven million six hundred thousand dollars ($47,600,000) from unallocated special funds for expenditure in the 1999–2000 fiscal year in augmentation and for the purposes of state employee compensation as provided in Item 9800-001-0494 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(c) Twelve million six hundred thirty-nine thousand two hundred eighty-eight dollars ($12,639,288) from the General Fund to the

Department of Personnel Administration for the purpose of funding the Rural Health Care Equity Program, as established by Section 22825.01 of the Government Code, as added by Chapter 743 of the Statutes of 1999.

The funds appropriated pursuant to this subdivision shall be used for the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care costs of active state employees and annuitants living in rural areas. The funds appropriated by this subdivision shall be available for expenditure until January 1, 2005.

(d) The sum of one hundred seventy-five thousand dollars ($175,000) from the General Fund in augmentation of Item 8380-001-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50 of the Statutes of 1999). The funds appropriated pursuant to this subdivision shall be used to contract with a third-party administrator to provide recordkeeping services for the Rural Health Care Equity Program, as established by Section 22825.01 of the Government Code, as added by Chapter 743 of the Statutes of 1999.

SEC. 24. Section 21.5 of this bill incorporates amendments to Section 10295 of the Public Contract Code proposed by both this bill and AB 1441. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 10295 of the Public Contract Code, and (3) this bill is enacted after AB 1441, in which case Section 10295 of the Public Contract Code, as amended by Section 21 of this bill, shall remain operative only until the operative date of AB 1441, at which time Section 21.5 of this bill shall become operative.

SEC. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act relating to state employees may become effective at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 403

An act to amend Section 66021.2 of, to add Sections 69514.5, 69547.5, and 69547.9 to, to add Chapter 1.7 (commencing with Section 69430) to Part 42 of, and to repeal Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of, the Education Code, relating to student

financial aid, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 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 Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) The California 1960 Master Plan for Higher Education established a structure for the organization of a world-class postsecondary system of education that utilizes the strength and capacity of the California community colleges in the training of lower division students in vocational programs and courses for transfer to higher institutions, undergraduate programs in the liberal arts, sciences, and teacher preparation at the California State University, partnerships with the independent colleges, and the undergraduate and professional schools, graduate training, and research at the University of California.

(2) A cornerstone of the Master Plan was a promise that the state would ensure all qualified students access to a quality higher education. The drafters of the Master Plan reaffirmed a long established principle that the state colleges and the University of California be tuition free to all residents of the state. Over the past four decades this policy evolved into a promise of affordability for all qualified students using a balance of fees and financial aid for low-income students.

(3) California reflects the ethnic and cultural diversity of today's world. Evidence of this change is most pronounced within our public elementary and secondary education system. As California enters the 21st century, there is no single group that represents a majority of elementary and secondary enrollment. These changing demographics present great challenges and great opportunities. California must invest in higher education and in the future of its young people so they can acquire skills and knowledge to compete and lead the nation and the world.

(4) The Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Act makes access and affordability a guarantee to every qualified student. It reaffirms the basic tenets of the 1960 Master Plan for Higher Education by guaranteeing a Cal Grant award to every student who is financially and academically eligible to receive one. Students with financial need and academic merit will no longer wonder whether they will be one of the relatively few students selected to receive a Cal Grant award each year.

(5) At a time when California is insisting on improved performance and accountability from all students in the public elementary and secondary school system, it is important to follow through on the state's commitment to the capable graduates of high schools so they can pursue a quality higher education, especially when their families have limited financial means.

(6) The Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Act removes poverty as a barrier to access to the opportunities of a higher education for all academically successful students and provides an opportunity to enroll and complete a higher education and take on the challenges presented by the Information Age and the ever-changing, technology-driven economy of the 21st century.

(7) The Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Act takes an historic step in putting California at the forefront of the nation in providing access to all academically qualified students with financial need who are pursuing the dream of a higher education. With the enactment of this measure California will keep faith with its decades-long promise to make higher education available and affordable to every qualified student who deserves a chance to aim high and succeed.

(b) It is the intent of the Legislature, in enacting this act, to sunset the Cal Grant Program established pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code and to establish the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Act, commencing with the 2001–02 academic year.

SEC. 3. Section 66021.2 of the Education Code is amended to read:

66021.2. Consistent with the state's historic commitment to provide educational opportunity by ensuring both student access to and selection of an institution of higher education for students with financial need, the long-term policy of the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42 shall be as follows:

(a) Commencing with the 2001–02 academic year and every year thereafter, an applicant for a Cal Grant A or B award shall receive an award that is not in excess of the financial need amount determined by the Student Aid Commission pursuant to Section 69432.9 if he or she complies with all of the following requirements:

(1) Demonstrates financial need under the criteria adopted pursuant to Section 69432.9.

(2) Attains a grade point average, as defined in Section 69432.7, meeting the requirements of Chapter 1.7 (commencing with Section 69430) of Part 42.

(3) Complies with each of the eligibility criteria applicable to the type of Cal Grant award for which he or she is applying.

(b) (1) The maximum Cal Grant A award for a student attending the University of California or the California State University shall equal the mandatory systemwide fees in each of those segments.

(2) The maximum Cal Grant B award for a student to which this subdivision is applicable shall equal the mandatory systemwide fees in the segment attended by the student, except for community college students who receive waivers from the Board of Governors of the California Community Colleges, plus the access award calculated as specified in Article 3 (commencing with Section 69435) of Chapter 1.7 of Part 42, except that in the first year of enrollment in a qualifying institution, the maximum award shall be only for the amount of the access award.

(c) The maximum Cal Grant awards for students attending nonpublic institutions shall be as follows:

(1) The maximum Cal Grant A award shall equal the tuition award level established in the Budget Act of 2000, or the amount as adjusted in subsequent annual budget acts.

(2) The maximum Cal Grant B award shall equal the amount of the tuition award as established in the Budget Act of 2000, or the amount as adjusted in subsequent annual budget acts, plus the amount of the access costs specified in Section 69435, except that, in the first year of enrollment in a qualifying institution, the maximum award shall be only for the amount of the access award.

(d) Commencing with the 2000–01 academic year, and each academic year thereafter, the Cal Grant C award shall be utilized only for occupational or technical training.

(e) Commencing with the 2000–01 academic year, and each academic year thereafter, the Cal Grant T award shall be used only for one academic year of full-time attendance in a program of professional preparation that has been approved by the California Commission on Teacher Credentialing.

(f) An institution of higher education in this state that participates in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not reduce its level of per capita need-based institutional financial aid to undergraduate students, excluding loans, below the total level awarded in the 2000–01 academic year.

(g) The implementation of the policy set forth in this section shall maintain a balance between the state's policy goals of ensuring student access to and selection of an institution of higher education for students with financial need and academic merit.

(h) It is the policy of the State of California that the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program supplement the federal Pell Grant program.

(i) An award under the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not guarantee admission to an institution of higher education or admission to a specific campus or program.

SEC. 4. Chapter 1.7 (commencing with Section 69430) is added to Part 42 of the Education Code, to read:

CHAPTER 1.7. ORTIZ-PACHECO-POOCHIGIAN-VASCONCELLOS CAL GRANT PROGRAM

Article 1. General Provisions

69430. This chapter shall be known, and may be cited, as the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

69431. There is hereby established the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which may also be referred to as the Cal Grant Program.

69432. (a) Cal Grant Program awards shall be known as ''Cal Grant A Entitlement Awards,'' ''Cal Grant B Entitlement Awards,'' ''California Community College Transfer Entitlement Awards,'' ''Competitive Cal Grant A and B Awards,'' ''Cal Grant C Awards,'' and ''Cal Grant T Awards.''

(b) Maximum award amounts for students at independent institutions and for Cal Grant C and T awards shall be identified in the annual Budget Act. Maximum award amounts for Cal Grant A and B awards for students attending public institutions shall be referenced in the annual Budget Act.

69432.5. The Budget required by the California Constitution to be submitted by the Governor at each Regular Session of the Legislature shall take into consideration the amount of federal grant funds for student financial aid.

69432.7. As used in this chapter, the following terms have the following meanings:

(a) An ''academic year'' is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

(b) ''Access costs'' means living expenses and expenses for transportation, supplies, and books.

(c) ''Award year'' means one academic year, or the equivalent, of attendance at a qualifying institution.

(d) ''College grade point average'' and ''community college grade point average'' mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree.

(e) ''Commission'' means the Student Aid Commission.

(f) ''Enrollment status'' means part-time status or full-time status.

(1) Part-time, for purposes of Cal Grant eligibility, is defined as 6 to 11 semester units, inclusive, or the equivalent.

(2) Full-time, for purposes of Cal Grant eligibility, is defined as 12 or more semester units or the equivalent.

(g) ''Expected family contribution,'' with respect to an applicant shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(h) ''High school grade point average'' means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses, and computed pursuant to regulations of the commission. However, for high school graduates who apply after their senior year, ''high school grade point average'' includes senior year coursework.

(i) ''Instructional program of not less than one academic year'' means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(j) ''Instructional program of not less than two academic years'' means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(k) ''Maximum household income and asset levels'' means the applicable household income and household asset levels for participants in the Cal Grant Program, as defined and adopted in regulations by the commission for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent and Independent students with dependents*		
Family Size		
Six or more	$74,100	$40,700
Five	$68,700	$37,700

Four	$64,100	$33,700
Three	$59,000	$30,300
Two	$57,600	$26,900
Independent		
Single, no dependents	$23,500	$23,500
Married	$26,900	$26,900

*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent**	$49,600	$49,600
Independent	$23,600	$23,600

**Applies to independent students with dependents other than a spouse.

The commission shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution.

(*l*) ''Qualifying institution'' means any of the following:

(1) Any California private or independent postsecondary educational institution that participates in the Pell Grant program and in at least two of the following federal campus-based student aid programs:

(A) Federal Work-Study.

(B) Perkins Loan Program.

(C) Supplemental Educational Opportunity Grant Program.

(2) Any nonprofit institution headquartered and operating in California that certifies to the commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the commission that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation, by the commission in consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the commission to participate in the Cal Grant Program for the 2000–01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(3) Any California public postsecondary educational institution.

(m) ''Satisfactory academic progress'' means those criteria required by applicable federal standards published in Title 34 of the Code of Federal Regulations. The commission may adopt regulations defining ''satisfactory academic progress'' in a manner that is consistent with those federal standards.

69432.8. The commission may determine that an advance payment is essential to ensure that funds provided pursuant to this chapter to assist students to enroll in postsecondary education are available at the time students enroll. Upon making that determination, the commission may, on the basis of institutional academic calendars, advance, per term to authorized postsecondary educational institutions, the funds for eligible students who have indicated they will attend those institutions, less an amount based on historical claim enrollment attrition information. Each institution shall disburse the funds in accordance with the provisions set forth in the institutional agreement between the commission and the institution.

69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission.

(b) Financial need shall be determined using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the Federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq., as amended). The calculation of financial need shall be consistent with the commission's methodology for financial need for the 2000–01 academic year.

(1) ''Expected family contribution,'' with respect to an applicant shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) Financial need is defined as the difference between the student's cost of attendance as determined by the commission and the expected family contribution. The calculation of financial need shall be consistent with the commission's methodology for determining financial need for the 2000–01 academic year as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial Cal Grant A or Cal Grant C award shall be not less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars ($1,500) of financial need.

(B) The minimum financial need required for receipt of an initial Cal Grant B award shall be no less than seven hundred dollars ($700).

(c) The commission shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee. The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average. It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

69433. (a) (1) A Cal Grant Program award shall be based upon the financial need of the applicant, and shall not exceed the calculated financial need for any individual applicant. The minimum level of financial need of each applicant shall be determined by the commission pursuant to Section 69432.9. The commission may provide renewal awards.

(2) A student attending a nonpublic institution shall receive a renewal award for tuition or fees, or both, in an amount not to exceed the maximum allowable award amount that was in effect in the year in which the student first received a new award.

(b) A Cal Grant award authorized pursuant to this chapter shall be defined as a full-time equivalent grant. An award to a part-time student shall be a fraction of a full-time grant, as determined by the commission.

(c) (1) The commission shall prescribe the use of standardized student financial aid applications for California. These applications shall be simple in nature, and collect common data elements required by the federal government and those elements needed to meet the objectives of state-funded and institutional financial aid programs.

(2) The applications prescribed in paragraph (1) shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education (except for the Financial Assistance Program of the Board of Governors of the California Community Colleges authorized by Chapter 1118 of the Statutes of 1987, for which a simplified application designed for that sole purpose may be used), and all federal programs administered by a public postsecondary education institution.

(3) Supplemental application information may be utilized if the information is essential to accomplishing the objectives of individual

programs. All supplemental application information used for the purposes of commission-administered programs shall be subject to approval by the commission, and applications shall be identical for programs with similar objectives, as determined by the commission.

(4) Public postsecondary institutions are encouraged to use, but may decide whether to use, the standard applications for funds provided by private donors.

(5) The Legislature finds and declares that it is in the best interest of students that all postsecondary education institutions in California participating in federal and state-funded financial aid programs accept the standard applications prescribed by the commission.

(d) Nothing in this chapter shall prevent an individual public postsecondary institution from processing, with its own staff and fiscal resources, the standard financial aid applications specified in subdivision (c) for student aid programs for which it has legal responsibility.

(e) The commission may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants, fellowships, and loans through the use of electronic networks and unified data bases.

69433.5. (a) Only a resident of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), is eligible for an initial Cal Grant award. The recipient shall remain eligible for award renewal only if he or she is a California resident, in attendance, and making satisfactory academic progress at a qualifying institution, as determined by the commission.

(b) A part-time student shall not be discriminated against in the selection of Cal Grant Program award recipients, and an award to a part-time student shall be approximately proportional to the time the student spends in the instructional program, as determined by the commission. A first-time Cal Grant Program award recipient who is a part-time student shall be eligible for a full-time renewal award if he or she becomes a full-time student.

(c) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(d) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in Section 69440, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of the amount equivalent to the award level for a total of four years of full-time attendance in an undergraduate program, except as provided in Section 69433.6.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69440.

(e) A Cal Grant Program award, except as provided in Section 69440, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(f) Commencing in 1999, the commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(g) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not necessarily be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(h) The commission may require, by the adoption of rules and regulations, the production of reports, accounting, documents, or other necessary statements from the award recipient and the college or university of attendance pertaining to the use or application of the award.

(i) A Cal Grant Program award may be utilized only at a qualifying institution.

69433.6. (a) Cal Grant A awards and Cal Grant B awards may be renewed for a total of the equivalent of four years of full-time attendance in an undergraduate program provided that financial need continues to exist. Commencing with the 2001–02 academic year, the total number of years of eligibility for grants pursuant to this section shall be based on the student's educational level in his or her course of study as designated by the institution of attendance when the recipient initially receives payment for a grant.

(b) For a student enrolled in an institutionally prescribed five-year undergraduate program, Cal Grant A awards and Cal Grant B awards may be renewed for a total of five years of full-time attendance, provided that financial need continues to exist.

(c) (1) A Cal Grant Program award recipient who has completed a baccalaureate degree, and who has been admitted to and is enrolled in a program of professional teacher preparation at an institution approved by the California Commission on Teacher Credentialing is eligible for, but not entitled to, renewal of a Cal Grant Program award for an

additional year of full-time attendance, if financial need continues to exist.

(2) Payment for an additional year is limited to only those courses required for an initial teaching authorization. An award made under this subdivision may not be used for other courses.

(d) A student's Cal Grant renewal eligibility shall not have lapsed more than 15 months prior to the payment of an award for purposes of this section.

69433.7. The commission shall adopt regulations necessary to implement this chapter. Notwithstanding any other provision of law, the commission may adopt emergency regulations pursuant to Section 11346.1 of the Government Code in order to ensure that the program enacted by this chapter may function in its first academic year.

69433.8. An award under this chapter does not guarantee admission to an institution of higher education or admission to a specific campus or program.

69433.9. To be eligible to receive a Cal Grant award under this chapter, a student shall be all of the following:

(a) A citizen of the United States, or an eligible noncitizen, as defined for purposes of financial aid programs under Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq., as from time to time amended).

(b) In compliance with all applicable Selective Service registration requirements.

(c) Not incarcerated.

(d) Not in default on any student loan within the meaning of Section 69507.5.

(e) For purposes of Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), and Article 4 (commencing with Section 69436), at the time of high school graduation or its equivalent, be a resident of California.

Article 2. Cal Grant A Entitlement Program

69434. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant A award shall be used only for tuition or student fees, or both, in a for-credit instructional program with a length of not less than two academic years. Each student who meets the Cal Grant A qualifications as set forth in this article shall be guaranteed an award. The amount of any individual award is dependent on the cost of tuition or fees, or both, at the qualifying institution at which the student is enrolled. For each applicant, the award amount shall not exceed the calculated financial need.

(b) Pursuant to Section 66021.2, any California resident is entitled to a Cal Grant A award, and the commission shall allocate that award, if all of the following criteria are met:

(1) The student has submitted, pursuant to Section 69432.9, a complete financial aid application, submitted or postmarked no later than March 2 of the academic year of high school graduation or its equivalent for the award year immediately following the academic year of high school graduation or its equivalent, or no later than March 2 of the academic year following high school graduation or its equivalent for the second award year following the year of high school graduation or its equivalent.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student attains a high school grade point average of at least 3.0 on a four-point scale.

(4) The student's household has an income and asset level that does not exceed the level for Cal Grant A recipients set forth in Section 69432.7.

(5) The student is pursuing an undergraduate academic program of not less than two academic years that is offered by a qualifying institution.

(6) The student is enrolled at least part-time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(c) A student who meets the Cal Grant A Entitlement Program criteria specified in this article shall receive a Cal Grant A award for tuition or fees, or both, pursuant to Section 66021.2.

69434.5. An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in reserve for him or her for a period not to exceed two academic years, except that the commission may extend the period in which his or her award may be held in reserve for up to three academic years if, in the commission's judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The commission shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual will be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request, the commission shall reassess the financial need of the award recipient. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits

shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution.

Article 3. Cal Grant B Entitlement Program

69435. (a) (1) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant B award shall be used only for tuition, student fees, and access costs in a for-credit instructional program that is not less than one academic year in length.

(2) The commission shall award access grants in a student's first academic year. In subsequent years, the award shall include an additional amount to pay tuition or fees, or both, to attend college at a public or private four-year college or university or other qualifying institution for all Cal Grant B awards pursuant to paragraph (2) of subdivision (b) of Section 66021.2. In no event shall the total award in any year exceed the applicant's calculated financial need.

(3) Not more than 2 percent of new Cal Grant B recipients enrolling for the first time in an institution of postsecondary education shall be eligible for payments for tuition or fees, or both, in their first academic year of attendance. The commission shall adopt regulations specifying the criteria used to determine which applicants, if any, receive both tuition and fees plus the access grant in the first year of enrollment. Priority shall be given to students with the lowest expected family contribution pursuant to Section 69432.7 and the highest level of academic merit.

(b) An award for access costs under this article shall be in an annual amount not to exceed one thousand five hundred fifty-one dollars ($1,551). This amount may be adjusted in the annual Budget Act.

69435.3. (a) Any California resident is entitled to receive a Cal Grant B award, and the commission shall allocate that award pursuant to Section 66021.2, if all of the following criteria are met:

(1) The student has submitted, pursuant to Section 69432.9, a complete financial aid application, submitted or postmarked no later than March 2 of the academic year of high school graduation or its equivalent for the award year immediately following the academic year of high school graduation or its equivalent, or no later than March 2 of the academic year following high school graduation or its equivalent for the second award year following the year of high school graduation or its equivalent.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student attains a high school grade point average of at least 2.0 on a four-point scale.

(4) The student's household has an income and asset level that does not exceed the level for Cal Grant B recipients as set forth in Section 69432.7.

(5) The student is pursuing an undergraduate academic program of not less than one academic year that is offered by a qualifying institution.

(6) The student is enrolled at least part-time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(b) A student whose household income does not exceed the maximum household income and asset levels, as set forth in Section 69432.7, for a Cal Grant B award shall receive access costs and tuition and fees pursuant to Section 66021.2.

Article 4. California Community College Transfer Cal Grant Entitlement Program

69436. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a student who was not awarded a Cal Grant A or B award pursuant to Article 2 (commencing with Section 69434) or Article 3 (commencing with Section 69435) at the time of his or her high school graduation but, at the time of transfer from a California community college to a qualifying baccalaureate program, meets all of the criteria set forth in subdivision (b), shall be entitled to a Cal Grant A or B award.

(b) Any California resident transferring from a California community college to a qualifying institution that offers a baccalaureate degree is entitled to receive, and the commission shall award, a Cal Grant A or B depending on the eligibility determined pursuant to subdivision (c), if all of the following criteria are met:

(1) A complete official financial aid application has been submitted or postmarked pursuant to Section 69432.9, no later than the March 2 of the year immediately preceding the award year.

(2) The student demonstrates financial need pursuant to Section 69433.

(3) The student has earned a community college grade point average of at least 2.4 on a 4.0 scale and is eligible to transfer to a qualifying institution that offers a baccalaureate degree.

(4) The student's household has an income and asset level not exceeding the limits set forth in Section 69432.7.

(5) The student is pursuing a baccalaureate degree that is offered by a qualifying institution.

(6) He or she is enrolled at least part-time.

(7) The student meets the general Cal Grant eligibility requirements set forth in Article 1 (commencing with Section 69430).

(8) The student meets the federal definition of a dependent student, as set forth in Section 152 of Title 26 of the United States Code, with the exception of:

(A) A student who is an orphan or a ward of the court and who will not be 24 years old or older by December 31 of the award year.

(B) A student who is a veteran of the United States Armed Forces and who will not be 24 years old or older by December 31 of the award year.

(C) A student who is a married person and who will not be 24 years old or older by December 31 of the award year.

(D) A student who will not be 24 years old or older by December 31 of the award year and who has dependents other than a spouse.

(E) A student who will not be 24 years old or older by December 31 of the award year and for whom a financial aid administrator makes documented determination of independence by reason of other unusual circumstances.

(9) A student who graduated from a California high school or its equivalent during or after the 2001–02 academic year.

(c) The amount and type of the award pursuant to this article shall be determined as follows:

(1) For applicants with income and assets at or under the Cal Grant A limits, the award amount shall be the amount established pursuant to Article 2 (commencing with Section 69434).

(2) For applicants with income and assets at or under the Cal Grant B limits, the award amount shall be the amount established pursuant to Article 3 (commencing with Section 69435).

69436.5. A participating qualifying institution shall report to the commission annually as to the number of students determined to be independent pursuant to subparagraph (E) of paragraph (8) of subdivision (b) of Section 69436 and the reasons therefor.

Article 5. Competitive Cal Grant A and B Awards

69437. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, there shall be established the Competitive Cal Grant A and B award program for students who did not receive a Cal Grant A or B entitlement award pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436). Awards made under this section are not entitlements. The submission of an application by a student under this section shall not entitle that student to an award. The selection of students under this article shall be determined pursuant to subdivision (c) and other relevant criteria established by the commission.

(b) A total of 22,500 Cal Grant A and B awards shall be granted annually under this article on a competitive basis for applicants who

meet the general eligibility criteria established in Article 1 (commencing with Section 69430) and the priorities established by the commission pursuant to subdivision (c).

(1) Fifty percent of the awards referenced in this subdivision are available to all students, including California community college students, who meet the financial need and academic requirements established pursuant to this article. A student enrolling at a qualifying baccalaureate degree granting institution shall apply by the March 2 deadline. A California community college student is eligible to apply at the March 2 or the September 2 deadline.

(2) Fifty percent of the awards referenced in this subdivision are reserved for students who will be enrolled at a California community college. The commission shall establish a second application deadline of September 2 for community college students to apply for these awards effective with the fall term or semester of the 2001–02 academic year.

(3) If any awards are not distributed pursuant to paragraphs (1) and (2) upon initial allocation of the awards under this article, the commission shall make awards to as many eligible students as possible, beginning with the students with the lowest expected family contribution and highest academic merit, consistent with the criteria adopted by the commission pursuant to subdivision (c), as practicable without exceeding an annual cumulative total of 22,500 awards.

(c) (1) On or before February 1, 2001, acting pursuant to a public hearing process that is consistent with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), the commission shall establish selection criteria for Cal Grant A and B awards under the competitive program that give special consideration to disadvantaged students, taking into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper a student's access to, and ability to persist in, postsecondary education programs.

(2) Additional consideration shall be given to each of the following:

(A) Students who graduated from high school or its equivalent prior to the 2000–01 academic year. This subparagraph shall not be applicable after the 2004–05 academic year.

(B) Students pursuing Cal Grant B awards who reestablish their grade point averages.

(C) Students who did not receive awards pursuant to Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), or Article 4 (commencing with Section 69436).

(d) All other students who meet the eligibility requirements pursuant to Article 1 (commencing with Section 69430) are eligible to compete for an award pursuant to this article.

69437.3. (a) The commission shall utilize the standardized student financial aid application described in Section 69432.9.

(b) An official financial aid application shall be submitted pursuant to Section 69432.9, submitted or postmarked no later than March 2, or September 2 for students enrolled at a community college.

(c) A student shall be enrolled at least part-time.

69437.5. Cal Grant A and B awards shall be used only for the purposes set forth in Article 2 (commencing with Section 69434) and Article 3 (commencing with Section 69435), respectively.

69437.6. (a) An applicant competing for an award under this article shall meet all the requirements of Article 1 (commencing with Section 69430).

(b) To compete for a competitive Cal Grant A Award, an applicant shall, at a minimum, meet all of the requirements of Article 2 (commencing with Section 69434), with the exception of paragraph (1) of subdivision (b) of Section 69434.

(c) To compete for a competitive Cal Grant B Award, an applicant shall, at a minimum, meet all of the requirements of Article 3 (commencing with Section 69435). However, in lieu of meeting the grade point average requirements of paragraph (3) of subdivision (a) of Section 69435.3, a student may reestablish his or her grade point average by completing at least 16 cumulative units of credit for academic coursework at an accredited California community college, as defined by the commission, by regulation, with at least a 2.0 community college grade point average.

(d) To compete for a competitive California Community College Transfer Cal Grant Award, an applicant shall, at a minimum, meet the requirements of Article 4 (commencing with Section 69436), with the exception of paragraph (8) of subdivision (b) of Section 69436.

(e) All other competitors shall, at a minimum, comply with all of the requirements of subdivision (b) of Section 69432.9.

(f) An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in reserve for him or her for a period not to exceed two academic years, except that the commission may extend the period in which his or her award may be held in reserve for up to three academic years if, in the commission's judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The commission shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual will be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request the commission

shall reassess the financial need of the award recipient. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution. Any award so held in reserve shall only be counted once toward the 22,500 awards authorized by this article.

69437.7. After two award cycles, the commission shall review the competitive grant program and its priorities to gain a better understanding of early participation patterns and to determine the initial level of program effectiveness. The commission shall report these findings to the Legislature and the Governor by December 31, 2003, and each year thereafter.

Article 6. Cal Grant C Program

69439. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, a Cal Grant C award shall be utilized only for occupational or technical training in a course of not less than four months. There shall be the same number of Cal Grant C awards each year as were made in the 2000–01 fiscal year. The maximum award amount and the total amount of funding shall be determined each year in the annual Budget Act.

(b) ''Occupational or technical training'' means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

(c) The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

(d) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall the grants exceed two calendar years.

(e) Cal Grant C awards shall be for institutional fees, charges, and other costs including tuition, plus training-related costs, such as special clothing, local transportation, required tools, equipment, supplies, and books. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

(f) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the commission after consultation with appropriate state and federal agencies.

Article 7. Cal Grant T Program

69440. (a) Commencing with the 2001–02 academic year, and each academic year thereafter, Cal Grant T awards shall be used only for tuition and student fees for a maximum of one academic year of full-time attendance in a program of professional preparation that has been approved by the California Commission on Teacher Credentialing. There shall be a minimum of 3,000 new Cal Grant T awards each year. The maximum award amount, and the total amount of funding, shall be determined each year in the annual Budget Act. As a condition of receiving a Cal Grant T award, a recipient shall teach for one year in a low-performing school, as defined in subdivision (c) of Section 44765, for each two thousand dollar ($2,000) incentive provided through the Cal Grant T Program, for a period not to exceed four years. Any recipient who fails to meet his or her teaching obligation shall repay the Cal Grant T award.

(b) The commission shall allocate Cal Grant T awards using academic criteria or criteria related to past performance similar to that used in awarding Cal Grant A awards for the 2000–01 academic year.

SEC. 5. Section 69514.5 is added to the Education Code, to read:

69514.5. (a) The Community College Student Financial Aid Outreach Program is hereby established. The commission shall, in consultation with the office of the Chancellor of the California Community Colleges, develop and administer this program for the purpose of providing financial aid training to high school and community college counselors and advisors who work with students planning to attend or attending a community college. This training shall also address the specific needs of all of the following:

(1) Community college students intending to transfer to a four-year institution of higher education.

(2) Foster youth.

(3) Students with disabilities.

(b) The program shall provide specialized information on financial aid opportunities available to community college students, with a particular focus on students who plan to transfer to a four-year college or university. The commission shall work in collaboration with the Chancellor of the California Community Colleges and other segments of higher education to develop and distribute this specialized information to assist community college students who are planning to transfer to a four-year college or university. Each year, the program shall offer financial aid workshops for high school and community college counselors, targeted for students planning to attend a community college or to transfer from a community college to a four-year institution of higher education. The program shall assist community college

counselors in conducting student and family workshops that provide general information about financial aid and technical assistance in completing financial aid forms.

(c) The program shall concentrate its efforts on high schools and community colleges that are located in geographic areas that have a high percentage of low-income families.

SEC. 6. Section 69547.5 is added to the Education Code, to read:

69547.5. Commencing on January 1, 2001, this article shall be applicable only to students who have received an award pursuant to this article on or before December 31, 2000.

SEC. 7. Section 69547.9 is added to the Education Code, to read:

69547.9. This article shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 8. The Student Aid Commission shall annually report to the Legislature and the Governor on the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program from its inception on both of the following:

(a) The number of Cal Grant applicants and new and continuing recipients each year. This data shall include at a minimum the following information about recipients: educational level, grade point average, segment of attendance, number of community college transfer students.

(b) A longitudinal component that measures student persistence and graduation rates over time.

SEC. 9. Notwithstanding any other provision of law, the Director of Finance may authorize the augmentation, from the Special Fund for Economic Uncertainties established pursuant to Section 16418 of the Government Code, of the annual amount appropriated for the purpose of making Cal Grant awards pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42 of the Education Code, as necessary to fully fund the number of awards required to be granted by that chapter. No augmentation may be authorized under this section sooner than 30 days after the Director of Finance provides written notice of the proposed augmentation to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house that consider appropriations, nor sooner than whatever lesser time those persons, or their designees, may in each instance determine.

SEC. 10. (a) The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Student Aid Commission for expenditure, without regard to fiscal year, for support costs related to the administration of this act.

(b) The expenditure of the funds appropriated in subdivision (a) is subject to approval of a work plan by the Department of Finance, once

30-day written notification has been given to the Chairperson of the Joint Legislative Budget Committee, or his or her designee.

(c) Notwithstanding any other provision of law, any deficiency request submitted by the Student Aid Commission and recommended by the Director of Finance, pursuant to Section 27.00 of the Budget Act of 2000, for the purposes of implementing this act, shall be considered to be for unanticipated expenses incurred in the operation of existing programs, and shall be subject to any other pertinent provisions of Section 27.00 of the Budget Act of 2000.

(d) In order to ensure proper planning for administration of this act, it is the intent of the Legislature that the Department of Finance consider a Spring Finance Letter from the Student Aid Commission for inclusion in the Budget Bill for the 2001–02 fiscal year for the purposes of requesting funds to comply with this act in the 2001–02 fiscal year.

(e) No funds provided pursuant to this section shall be expended for information technology projects prior to approval by the Department of Finance and the Department of Information Technology of a Feasibility Study Report or a Special Project Report, as applicable.

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 for this act to take effect in time to apply to high school seniors who graduate in the 2000–01 academic year, it is necessary that it take effect immediately.

CHAPTER 404

An act to amend Sections 42239.2 and 69981 of, to add Sections 42239.15 and 99223 to, to add Chapter 17 (commencing with Section 53081) to Part 28 of, and to add Article 20 (commencing with Section 69995) to Chapter 2 of Part 42 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 42239.15 is added to the Education Code, to read:

42239.15. (a) For the 2000–01 fiscal year and each fiscal year thereafter, each school district and charter school shall be eligible for reimbursement for hours of pupil attendance claimed for intensive algebra instruction academies offered pursuant to Chapter 17 (commencing with Section 53081) of Part 28 in an amount up to 6 percent of the total enrollment in grades 7 and 8 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 determined pursuant to subdivision (c) of Section 42239. This amount shall be provided in addition to the amount provided pursuant to Section 42239.

(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 (d) of Section 53082.

SEC. 2. Section 42239.2 of the Education Code is amended to read:

42239.2. (a) Notwithstanding any other provision of law, 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 that, for the prior fiscal year, maintained less than 500 units of average daily attendance and that offers at least 1,500 hours of supplemental summer school instruction. A school district that, for the prior fiscal year, maintained less than 500 units of average daily attendance that offers less than 1,500 hours of supplemental summer school offerings shall receive a proportionate reduction in its allocation.

(b) Notwithstanding any other provision of law, the Superintendent of Public Instruction shall allocate a minimum of six thousand seven hundred sixty-six dollars ($6,766) for Intensive Algebra Instructional Academies established pursuant to Section 53081, from funds appropriated therefor, in each school district that, for the prior fiscal year, maintained less than 333 units of average daily attendance for pupils in grades 7 and 8 and that offers at least 1,500 hours of intensive algebra instruction. A school district that, for the prior fiscal year, maintained less than 333 units of average daily attendance for pupils in grades 7 and 8 and that offers less than 1,500 hours of Intensive Algebra Instructional Academy offerings shall receive a proportionate reduction in its allocation.

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

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

SEC. 3. Chapter 17 (commencing with Section 53081) is added to Part 28 of the Education Code, to read:

CHAPTER 17. INTENSIVE ALGEBRA INSTRUCTION ACADEMIES PROGRAM

53081. This chapter shall be known and may be cited as the Intensive Algebra Instruction Academies Program.

53082. (a) A school district or charter school that maintains grade 7 or 8, or both, may operate a program that provides multiple, intensive opportunities for pupils in either of these grades to practice skills in prealgebra, algebra, or both. Funding for the program established pursuant to this chapter shall be provided pursuant to Section 42239.15.

(b) As a condition of receiving funding for this program, a school district or charter school in which one or more teachers participate in the program authorized by Section 99223 is required to offer instruction as described in subdivision (a), to be provided by the teachers attending that program. These school districts and charter schools shall offer this instruction only after those teachers have completed the program authorized by Section 99223. Nothing in this subdivision shall be interpreted as precluding teachers in these school districts who have not participated in the program authorized by Section 99223 from providing instruction as described in subdivision (a).

(c) Pupils shall remain eligible for participation in the program established pursuant to this chapter for three calendar months after completing grade 8.

(d) The purposes of the program established by this chapter include, but are not limited to, both of the following:

(1) To provide pupils who are experiencing difficulty learning prealgebra and algebra with increased instructional opportunities.

(2) To provide stimulating and enriching opportunities for pupils to increase their prealgebra and algebra skills.

(e) (1) Instruction provided pursuant to this program shall include all of the following components:

(A) Mathematics principles generally used in a prealgebra course or an introductory algebra course.

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

(C) Early intervention techniques.

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

53083. (a) (1) Except as provided in paragraph (2), intensive prealgebra and algebra instruction provided pursuant to this chapter shall be offered four hours per day for six continuous weeks during the summer or when school is not regularly in session.

(2) Due to facilities constraints or for other educational reasons, a school district may offer intensive prealgebra and algebra instruction before school, after school, on Saturdays, or during intersession, or in a combination of summer school, after school, Saturday, or intersession instruction.

(b) Instruction provided pursuant to this chapter shall fulfill the requirements of subdivision (a) of Section 44830 and of Section 44831.

(c) Notwithstanding Section 49550 or any other provision of law, a school district that operates a program pursuant to this chapter is not required to provide a meal or snack to pupils participating in the program.

53084. The Superintendent of Public Instruction shall provide for an evaluation of the program established pursuant to this chapter on or before November 1, 2002. If funds are needed for this purpose, it is the intent of the Legislature that funds be appropriated for this purpose in the annual Budget Act.

SEC. 4. Section 69981 of the Education Code is amended to read:

69981. (a) There is hereby created an instrumentality of the State of California to be known as the Golden State Scholarshare Trust.

(b) The purposes, powers, and duties of the trust are vested in, and shall be exercised by, the board.

(c) The board, in the capacity of trustee, shall have the power and authority to do all of the following:

(1) Sue and be sued.

(2) Make and enter into contracts necessary for the administration of the scholarshare trust.

(3) Adopt a corporate seal and change and amend it from time to time.

(4) Cause moneys in the program fund to be held and invested and reinvested.

(5) Enter into agreements with any institution of higher education or any federal or other state agency or other entity as required for the effectuation of its rights and duties.

(6) Accept any grants, gifts, appropriation, and other moneys from any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund. Except as otherwise provided in Section 69982, the trust may not accept any contribution by any nonpublic entity, person, firm, partnership, or corporation that is not designated for a specified beneficiary.

(7) Enter into participation agreements with participants, as set forth in Section 69983.

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries.

(9) Make refunds to participants upon the cancellation of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this article.

(10) Appoint a program administrator and determine the duties of the program administrator and other staff as necessary and set their compensation. The board may authorize the program administrator to enter into contracts on behalf of the board.

(11) Make provisions for the payment of costs of administration and operation of the scholarshare trust.

(12) Carry out the duties and obligations of the scholarshare trust pursuant to this article and have any and all other powers as may be reasonably necessary for the effectuation of the purposes, objectives, and provisions of this article pertaining to the scholarshare trust, as set forth in Section 69982.

(d) The board shall adopt regulations as it deems necessary to implement this article and Article 20 (commencing with Section 69995) consistent with the federal Internal Revenue Code and regulations issued pursuant to that code to ensure that this program meets all criteria for federal tax-deferral or tax-exempt benefits, or both.

SEC. 5. Article 20 (commencing with Section 69995) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 20. Governor's Scholarship Programs

69995. (a) It is the intent of the Legislature in enacting this article to encourage high school pupils to study hard and master the California academic content standards adopted by the State Board of Education and to excel in mathematics and the sciences.

(b) The Scholarshare Investment Board, known hereafter as ''the board,'' unless otherwise specified, shall administer the programs authorized by this article, including the adoption of rules and regulations as provided by subdivision (d) of Section 69981, and in so doing shall cooperate with the State Department of Education, the Treasurer's office, the Controller, the college board, private test publishing companies, and other entities necessary to ensure the accurate and timely identification and reporting of award recipients, granting of awards, and administration of these programs. The State Department of Education shall ensure that the contract with the test publisher selected pursuant to Section 60642 reflects the reporting requirements of this article and that the publisher meets those requirements.

(c) The definitions in Section 69980 apply to this article.

(d) To be eligible for an award pursuant to the programs authorized by this article, a pupil shall meet all of the following eligibility criteria:

(1) Take the achievement test authorized by Section 60640 in grade 9, 10, or 11.

(2) Attend a California public school for at least one continuous year prior to the administration of the achievement test specified in paragraph (1), as evidenced by his or her school records obtained as part of the process of claiming an award authorized by this article.

(3) Take both of the following:

(A) The nationally normed reading and mathematics portions of the achievement test, as specified by the State Board of Education and authorized by Section 60640.

(B) The English/language arts and mathematics portions of the achievement test authorized by Section 60640 that are augmented and aligned, pursuant to subdivision (f) of Section 60644, with the California academic content standards, unless otherwise exempted by action of the State Board of Education.

(e) Awards made pursuant to this article shall be an entitlement to pupils identified as qualifying for an award pursuant to this article. The entity contracted for the assessment authorized by Section 60640 shall annually provide the board with a digital report of award recipients pursuant to this section, no later than 30 days after the results of the assessment authorized by Section 60640 have been made public pursuant to subdivision (e) of Section 60641. Upon receipt of this report, the board shall deposit a single amount equal to the sum of the amounts of the awards earned by qualifying pupils into a single account separate and apart from all participant accounts within the Golden State Scholarshare Trust in the names of those pupils. Scholarship assets may not be commingled for investment purposes with participant accounts. Notwithstanding the provisions of Section 69991, all assets of the scholarship account, while part of the Golden State Scholarshare Trust, are owned by the state until a qualified distribution is made.

(f) Deposits made to this account shall be invested according to the guidelines established by the board pursuant to the requirements of state and federal law. The deposits shall be invested through a guaranteed funding agreement with an interest rate to be declared annually by the investment manager, or through another investment determined by the board to be equally or more secure. For purposes of this section, a guaranteed funding agreement is an approved investment vehicle for state-owned scholarship funds.

(g) Nothing in this article shall be construed to prevent any pupil from seeking private or other funding sources to supplement the amount of any funds awarded pursuant to this article.

(h) Award recipients shall be informed that the programs authorized by this article do not guarantee in any way that higher education expenses will be equal to projections and estimates provided by the board, nor that the claimant will be guaranteed any of the following:

(1) Admission to an institution of higher education.

(2) If admitted, a determination that the award recipient is a resident for tuition purposes by the institution of higher education.

(3) Continued attendance at the institution of higher education following admission.

(4) Graduation from the institution of higher education.

(5) Savings sufficient to fully cover all qualified education expenses of attending an institution of higher education.

(i) Notwithstanding any other provision of state law, any funds awarded pursuant to this article shall augment and not supplant student financial aid from other public sources, inclusive of calculating eligibility for student financial aid.

(j) Notwithstanding any other provision of law, the awards and earnings claimed by a recipient pursuant to this article shall be exempt from state income tax liability.

(k) To the extent allowed under federal law, any funds awarded pursuant to this article may not be considered in the federal needs analysis for student financial aid, as they are an asset of the state until used for the payment of qualified higher education expenses.

69996. (a) Awards and the investment earnings accumulated pursuant to this article shall be available for the payment of qualified higher education expenses, as defined in subdivisions (g) and (*l*) of Section 69980. Pursuant to its authority under subdivision (d) of Section 69981, the board shall adopt rules and regulations to ensure that funds authorized by this chapter are disbursed directly to the institution of higher education indicated by an award recipient's claim form.

(b) Funds authorized by this article are nontransferable to any other person or entity and may only be used for the purposes stated herein. No funds authorized by this article may be pledged as collateral for any loan.

(c) (1) Awards and their investment earnings invested in the Scholarshare Trust shall remain assets of, and owned by, the state until used for the payment of qualified higher education expenses as authorized by this section, and shall remain invested in the Scholarshare Trust until they are used for the purposes authorized by this section or until the recipient achieves the age of 30, whichever occurs first. If, due to death or disability, an award recipient is unable to attend a postsecondary educational institution before reaching the age of 30 and the scholarship funds have not already been used for purposes of this article, the scholarship funds designated for the recipient shall revert to the General Fund.

(2) Any funds, less any applicable penalties, collected pursuant to Section 529 of the federal Internal Revenue Code not utilized within this time period shall revert to the General Fund after the payment of any amount determined to be due the federal government as a result of the reversion.

(d) The board shall establish rules and regulations for an award recipient to claim the funds deposited and accrued in the Scholarshare Trust in the name of that recipient, including, but not limited to, the claim process, necessary documentation, deadlines for the claims and the granting of awards and an appeals procedure, and any forfeiture procedures.

(e) The board shall request each award recipient to voluntarily report personal information, including, but not limited to, ethnicity, gender, and family income. The board shall compile and retain this information in a confidential manner so that the personal information of any award recipient is not publicly disclosed in a manner that may be associated with particular individuals.

(f) Within the annual report required pursuant to Section 69989, the board shall also include, at a minimum, the number of pupils qualifying for an award pursuant to this article, the number of awards claimed and disbursed, the rate of return earned by the funds authorized by this article in the previous five fiscal years, the amount of funds expended pursuant to this article in the previous five fiscal years, and a list, by high school, of the number of awards granted pursuant to the program authorized by this article. To the extent that information is available and can be disclosed without allowing the information to be associated with particular individuals, the board shall include information on the ethnicity, gender, and family income of award recipients.

69997. (a) The Governor's Scholars Program is hereby established. This program shall provide a scholarship of one thousand dollars ($1,000) to each public high school pupil who demonstrates high academic achievement on the achievement test authorized by Section 60640. Pupils receiving a scholarship pursuant to this section shall be known as ''Governor's Scholars.''

(b) Until the State Board of Education determines that the English language arts and mathematics portions of the statewide pupil achievement test authorized by Section 60640 have been aligned with the California academic content standards, and the standards aligned test is both valid and reliable for high stakes purposes, a pupil shall earn a scholarship pursuant to this section by satisfying either of the following criteria:

(1) Attaining a combined score on the reading and mathematics portions of the nationally normed achievement test adopted by the State

Board of Education pursuant to Section 60642 that places him or her in the top 5 percent of test takers in his or her grade level statewide.

(2) Attaining a combined score on the nationally normed reading and mathematics portions of the achievement test adopted by the State Board of Education pursuant to Section 60642 that places him or her in the top 10 percent of test takers in his or her grade level in the comprehensive public high school attended by that pupil. When calculating the top 10 percent, the result shall be rounded to the nearest whole integer for the purpose of determining the number of awards in any high school. If this calculation results in a number of pupils less than one in any high school, there shall be one award at that school.

(c) Pupils earning an award pursuant to subdivision (b) may receive only one award in any given year. However, a pupil may earn a lifetime maximum of three awards by meeting the requirements of this section in each of grades 9, 10, and 11.

(d) Once the State Board of Education has determined that the English language arts and mathematics portions of the statewide pupil achievement test authorized by Section 60640 have been aligned with the California academic content standards, and the standards aligned test is both valid and reliable for high stakes purposes, that test shall be used as the basis for the award of scholarships pursuant to subdivision (a).

69998. (a) The Governor's Distinguished Mathematics and Science Scholars Program is hereby established. This program shall provide a scholarship of two thousand five hundred dollars ($2,500) for public high school pupils who demonstrate specified high academic achievement in mathematics and the sciences. Pupils receiving a scholarship pursuant to this section shall be known as ''Governor's Mathematics and Science Scholars.''

(b) In addition to the criteria specified in subdivision (d) of Section 69995, a pupil shall satisfy the following to be eligible to receive a scholarship pursuant to this section:

(1) Earn an award pursuant to the program authorized by Section 69997.

(2) Take an advanced placement calculus examination offered by the college board.

(3) Take any one of the advanced placement biology, chemistry, or physics examinations offered by the college board.

(4) If the provisions of subdivision (c) apply, then paragraphs (2) and (3) shall be effective only as specified in subdivision (c).

(c) (1) If the pupil's school offers an advanced placement course in a subject described in subdivision (b), only the advanced placement examination in that subject shall be allowed for the purposes of determining eligibility for an award pursuant to this section. If a pupil's school does not offer an advanced placement course in a subject

identified in subdivision (b), he or she may take instead the Golden State Examination, as authorized by Article 5 (commencing with Section 60650) of Chapter 5 of Part 33, in that subject. Should there appear to be a conflict between this subdivision and any other subdivision related to this program, this subdivision shall be controlling.

(2) For the science test, the Golden State Examination in second-year coordinated science may be used in place of any other Golden State Examination in science for the purposes of this subdivision.

(3) For the mathematics test, only the High School Mathematics Golden State Examination may be used for the purposes of this subdivision.

(d) Eligible pupils shall earn a scholarship pursuant to this section by satisfying all of the following requirements:

(1) Attaining a score of five, on the advanced placement calculus AB examination, or attaining a score of four or five on the higher-level advanced placement calculus BC examination.

(2) Attaining a score of five on any one of the advanced placement biology, chemistry, or physics B examinations, or attaining a score of four or five on either of the advanced placement physics C (mechanics or electricity and magnetism) examinations.

(3) If a pupil is eligible for an award pursuant to paragraph (4) of subdivision (b), he or she must attain a score of six on the appropriate Golden State Examination, as described in subdivision (c).

(e) As an alternative to the examination requirements set forth in subdivisions (b), (c), and (d), a pupil may be eligible to receive a scholarship pursuant to this section for performance in science and mathematics examinations that are part of the International Baccalaureate Program. The State Board of Education shall review and designate those International Baccalaureate examinations that are equivalent to the advanced placement tests or Golden State Examinations for which pupils may receive scholarships pursuant to this section. The State Board of Education shall also designate the score on International Baccalaureate examinations that is equivalent to the score required on advanced placement tests or Golden State Examinations in order to receive a scholarship.

(f) The State Board of Education may modify this list of examinations as necessary to reflect additions and deletions to the series of examinations offered by the college board for advanced placement courses. The State Board of Education may also determine the relative rigor of any new examinations added to the list and whether those examinations should require a score of four or five if the added examinations and qualifying scores reflect at least the same level of rigor as the advanced placement examinations specified in this section.

(g) A pupil may receive a maximum of one award pursuant to the program established by this section.

(h) Paragraph (4) of subdivision (b), subdivision (c), and paragraph (3) of subdivision (d) shall become inoperative, and are repealed as of December 31, 2001.

69999. The board may adopt regulations for the purposes of this article as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For the purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any regulation adopted pursuant to this section shall not remain in effect more than one year unless the board complies with rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 6. Section 99223 is added to the Education Code, to read:

99223. The Regents of the University of California are requested to jointly develop with the Trustees of the California State University and the independent colleges and universities, the Algebra Academies 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 1,000 participants who either provide direct instruction in prealgebra and algebra to pupils in grades 7 and 8, 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 are not necessarily 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 that meet the criteria described 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) Early 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) 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.

(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 during the summer or during an intersession break, and shall be supplemented, during the following school year, with no fewer than the equivalent of five additional days 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.

(f) Teachers attending the institutes authorized by this section shall, as a condition of attendance and subsequent to that attendance, serve as instructors in the program authorized by Chapter 17 (commencing with Section 53081) of Part 28. These teachers shall continue to receive

followup professional development during the same time period they are providing instruction. Followup professional development during this time period shall occur outside of instructional time.

(g) 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 Academies Professional Development Institute if the institute has been certified by the Commission on Teacher Credentialing as meeting mathematics standards.

SEC. 7. (a) The sum of one hundred eighteen million dollars ($118,000,000) is hereby appropriated from the General Fund to the Scholarshare Investment Board for the 2000–01 fiscal year for the purpose of making scholarship awards pursuant to Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code. It is the intent of the Legislature that administrative costs for purposes of the program established by Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code be funded through the annual Budget Act. Administrative costs of the program established by Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code may not be funded through the administrative fund of the trust established by Article 19 (commencing with Section 69980) of the Education Code.

(b) Notwithstanding any other provision of law, the Director of Finance may authorize the augmentation, from the Special Fund for Economic Uncertainties established pursuant to Section 16418 of the Government Code, of the annual amount appropriated for the purpose of making scholarship awards pursuant to Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code, as necessary to fully fund the number of awards authorized by that article. No augmentation may be authorized sooner than 30 days after notification in writing of the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations, nor sooner than whatever lesser time those persons, or their designees, may in each instance determine.

SEC. 8. This act shall become operative only if Senate Bill 1644 of the 1999–2000 Regular Session is enacted.

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 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 405

An act to amend Section 45023.4 of the Education Code, relating to teacher salaries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 45023.4 of the Education Code is amended to read:

45023.4. (a) This section shall be known, and may be cited, as the Jack O'Connell Beginning-Teacher Salary Incentive Program. Commencing in the 1999–2000 fiscal year the governing board of a school district, the county superintendent of schools, or the county board of education may increase, for teachers who meet the requirements of this subdivision, the salary on its adopted certificated employee salary schedule as provided in subdivision (b). Any school district that elects to meet the requirements of this section shall be eligible to receive the incentive amount provided by subdivision (c). For purposes of this section, any teacher for whom the governing board, county superintendent of schools, or county board of education may increase salaries shall meet all of the following criteria:

(1) Hold a valid California teaching credential, not including an emergency permit, intern permit, or waiver.

(2) Possess a baccalaureate or higher degree.

(3) Receive a salary paid from the general fund of the district or county office.

(b) The governing board, county superintendent of schools, or county board of education that elects to increase teachers' salaries as authorized pursuant to subdivision (a) shall perform the following computations:

(1) The governing board, county superintendent of schools, or county board of education shall designate as the lowest salary on the salary schedule for a certificated employee meeting or exceeding the criteria in subdivision (a) an amount equal to a minimum annual salary of thirty-two thousand dollars ($32,000). If this salary change results in costs to the school district or county office of education that are equal to

or greater than the incentive received pursuant to subdivision (c), the minimum salary shall be thirty-two thousand dollars ($32,000). If this salary change results in costs to the school districts or county offices of education that are less than the incentive received, the remainder shall be used to increase the beginning salary by an amount above thirty-two thousand dollars ($32,000) which fully applies the incentive received.

(2) The governing board, county superintendent of schools, or county board of education shall increase to the annual salary amount in paragraph (1) the salary of any certificated employee meeting the criteria in subdivision (a) whose salary on the salary schedule is less than the amount computed in paragraph (1) and, notwithstanding Section 45028, shall incorporate that increase into the salary schedule.

(3) The newly adopted salary schedule shall contain only one cell that meets the amount set forth in paragraph (1), which most often is the first-year step of a salary schedule column for certificated personnel who meet the criteria set forth in subdivision (a). All other salary schedule cells shall exceed the level set forth in paragraph (1) for personnel that meet the criteria in subdivision (a).

(c) In the 1999–2000 fiscal year, the Superintendent of Public Instruction shall divide the amount appropriated for the purposes of this section by the 1998–99 second principal apportionment average daily attendance for all school districts and county offices of education in the state. Each school district and county office of education that certifies to the Superintendent of Public Instruction that it is in full compliance with this section shall receive following that certification an amount equal to the results of the calculation multiplied by the participating school district's or county office's 1998–99 second principal apportionment average daily attendance.

(d) For the 2000–01 fiscal year and each fiscal year thereafter, for each school district that meets the requirements of subdivision (b), the Superintendent of Public Instruction shall sum the results of paragraphs (1) and (2) and add that figure to the total school district revenue limit computed pursuant to Section 42238.

(1) Annually increase the statewide average funding rate per unit of average daily attendance calculated pursuant to subdivision (c) by the percentage increase computed pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second period average daily attendance for the prior fiscal year excluding attendance in regional occupational centers and programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(2) Annually increase the statewide average funding rate per unit of average daily attendance calculated pursuant to subdivision (c) by the

percentage increase computed pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second period average daily attendance for the prior fiscal year in regional occupational centers and programs, excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(e) For the 2000–01 fiscal year and each fiscal year thereafter, for each county office of education that meets the requirements of subdivision (b), the Superintendent of Public Instruction shall add the sum of paragraphs (1) and (2) to the county office of education revenue limit computed pursuant to Section 2550.

(1) Annually increase the statewide average funding rate per unit of average daily attendance calculated pursuant to subdivision (c) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second period average daily attendance for the prior fiscal year excluding attendance in regional occupational centers or programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(2) Annually increase the statewide average funding rate per unit of average daily attendance calculated pursuant to subdivision (c) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second period average daily attendance for the prior fiscal year in regional occupational centers or programs excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(f) The adjustment to the school district and county office of education revenue limit prescribed in subdivisions (d) and (e) shall continue so long as the increase in the salary schedule made pursuant to paragraph (2) of subdivision (b) is maintained.

(g) The adjustment made to school district or county office of education revenue limits pursuant to subdivisions (d) and (e) shall not be considered part of the base revenue limit for purposes of computing equalization adjustments or determining other differences in school funding that are based on the amount of funding received by a school district or county office of education.

(h) This section does not prohibit a school district and its employees from negotiating salary schedules.

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 revise the funding formula for the incentive amount provided to school districts that participate in the Jack O'Connell Beginning-Teacher Salary Incentive Program at the earliest possible time it is necessary for this act to take effect immediately.

CHAPTER 406

An act to amend Section 75.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 75.5 of the Revenue and Taxation Code is amended to read:

75.5. ''Property'' means and includes manufactured homes subject to taxation under Part 13 (commencing with Section 5800) and real property, other than the following:

(a) Fixtures that are normally valued as a separate appraisal unit from a structure.

(b) Newly created taxable possessory interests, established by month-to-month agreements in publicly owned real property, having a full cash value of fifty thousand dollars ($50,000) or less.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 407

An act relating to land use.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 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 City of Watsonville continues to experience levels of unemployment that are greater than surrounding communities, and is undertaking extensive efforts to increase employment opportunities and improve educational opportunities for a growing and diversifying population.

(b) The County of Santa Cruz contains some of the most productive agricultural lands in California, and some of the most significant wetlands and other important environmental resources.

(c) The City of Watsonville, the County of Santa Cruz, and the California Coastal Commission have voluntarily entered into a Memorandum of Understanding, dated June 14, 2000, relating to both of the following:

(1) The preservation of agricultural lands, wetlands, environmentally sensitive habitat areas, and other undeveloped lands westerly of the city's incorporated boundaries and within the coastal zone.

(2) The development of a high school on property commonly known as the Edwards Property within the westerly incorporated boundaries of the city.

(d) The Memorandum of Understanding by and between these governmental entities provides for a series of actions to be taken by each entity that will place policies in the city's and county's local ordinances and local coastal plans that will have the effect of deterring future annexations or other nonagricultural development westerly of the city's incorporated boundaries.

(e) In signing the Memorandum of Understanding, each governmental entity retains all of its independent authorities and powers, while also agreeing to adhere to the terms and conditions of the Memorandum of Understanding.

(f) The Memorandum of Understanding contains provisions for amending the Memorandum of Understanding, and by signing the Memorandum of Understanding, the parties agree to adhere to the procedures contained therein for any such amendments.

(g) The Memorandum of Understanding provides that the city shall require a supermajority of city council members to amend certain local coastal plan and general plan provisions related to the Memorandum of Understanding and that the county shall require a supermajority of members of the board of supervisors to amend local coastal plan and general plan provisions related to the Memorandum of Understanding.

(h) The Memorandum of Understanding specifies that the city and the county will support legislation relative to the Memorandum of Understanding that will permit any person to petition a court of

competent jurisdiction to compel the signatory parties to the Memorandum of Understanding to comply with the terms of the Memorandum of Understanding, but that such legislation would not become operative unless certain actions have occurred.

SEC. 2. (a) The City of Watsonville, the County of Santa Cruz, and the California Coastal Commission shall comply with the terms and conditions of the Memorandum of Understanding dated June 14, 2000, including, but not limited to, the procedures for amending the Memorandum of Understanding.

(b) Any person may petition a court of competent jurisdiction to require the City of Watsonville, the County of Santa Cruz, or the California Coastal Commission to comply with the terms of the Memorandum of Understanding, including any amendments thereto.

(c) Nothing in this act interferes with the right to pursue any other legal remedy that any person may have under any other provision of law.

(d) This section shall not be operative until (1) the City of Watsonville and the County of Santa Cruz both have housing elements in their respective general plans certified by the Department of Housing and Community Development and unless (2) either the City of Watsonville or the County of Santa Cruz takes any official action to amend or repeal the supermajority voting requirements as contained in the Memorandum of Understanding.

CHAPTER 408

An act to amend Section 180050 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 180050 of the Public Utilities Code is amended to read:

180050. A county board of supervisors may create an authority to operate within the county to carry out this division, or may designate a transportation planning agency designated pursuant to Section 29532 of the Government Code or created pursuant to the Fresno County Transportation Improvement Act pursuant to Division 15 (commencing with Section 142000), or a county transportation commission created pursuant to the County Transportation Act (Division 12 (commencing

with Section 130000)) in existence in the county on January 1, 1988, to serve as an authority.

CHAPTER 409

An act to amend Sections 4790, 4792, 4793, 4794, and 4799.01 of the Public Resources Code, relating to forest resources.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 4790 of the Public Resources Code is amended to read:

4790. The Legislature finds and declares that:

(a) Forest lands, while often managed to produce wood fiber for building materials and paper manufacture, also provide public benefits, including employment opportunities in both rural and urban areas, renewable energy, protection and enhancement of air, water, and soil resources, fish and wildlife habitat, and opportunities for aesthetic and recreational enjoyment.

(b) Historically, substantial areas of forest land were not reforested or otherwise managed for optimum production of forest resources following harvest operations, wildfires, unsuccessful attempts to clear the land for other uses, or damage by insects, disease, or other natural catastrophes. As a result, an estimated five million acres of public and private forest land in the state are producing substantially less forest resources than their potential. These areas are inadequately stocked with trees or are occupied by damaged or diseased trees or species of less value for sawtimber and other forest products. Some lands also have suffered from or are threatened with depletion by soil erosion. Water quality and quantity has suffered and fish habitats have also been adversely affected. In areas where forest regeneration has occurred, the present forest stand would often produce significantly greater timber supplies if thinning or other forest improvement investments were made.

(c) Future demand for timber supplies and other demands for forest resources are likely to rise substantially. Future supplies of these renewable resources are presently estimated to decline for a period and then to recover, but at a rate significantly slower than the rate of increase in demand.

(d) Wood waste products and tree or shrub species not normally utilized to produce building materials can provide opportunities for an

alternative means to generate electrical energy or could be converted to solid, gaseous, or liquid fuels for transport or industrial use. Future supplies of wood products not usable for building materials, and, therefore potentially available for energy production, will be increased if forest resource improvements are made.

(e) The forest efficiently captures and stores solar energy. Wood products can be produced with a significantly lower energy cost than most competing substitutes. This disparity is likely to increase in the future.

(f) A relatively small amount of forest land is currently being reforested, other than pursuant to the stocking requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2) applicable following timber harvesting. Obstacles to private investments in reforesting or improving forest lands include: the extraordinarily long time required for such investments to produce income; the risk of loss due to fire, insect, or disease; lack of necessary forestry expertise or knowledge of the potential benefits of improved forest resource management; the difficulty of transferring capital invested in forest resource improvements to other investment opportunities or otherwise using the funds for other needs once the initial investment has been made; and the fact that some forest resource investments, including erosion control measures, may not produce any income recognizable to the landowner.

(g) Over one-half of the privately owned, commercial forest land in the state is owned by nonindustrial landowners. Forest resources that can be provided by these lands will be increasingly important in the future. Yet the owners of these lands often lack forestry expertise, economic incentive, or capital needed to make investments to increase present and future availability of forest resource benefits from their lands.

(h) Investments in public and private forest land are essential if adequate future timber supplies are to be available and if the forest resource system of soil, air, water, and vegetative and animal life is to be maintained in a productive condition for the future. These investments will also lessen fire hazards and improve watershed protection following catastrophic destruction of forests and other vegetative cover by fire, wind, flood, insects, disease, and other causes.

(i) Failure to make the necessary investments will lead to higher prices for increasingly scarce forest products, lower rural and urban employment in the forest products and related industries and businesses, and the loss or diminished value of soils and other forest resources.

(j) Forest resource improvements made pursuant to this chapter serve a public purpose and will promote the health, welfare, and economic security of the citizens of the state.

SEC. 2. Section 4792 of the Public Resources Code is amended to read:

4792. In furtherance of the purposes of this chapter, the department is authorized to enter into agreements and make loans and otherwise carry out the purposes of this chapter. The forestry assistance program conducted by the department shall encourage forest resource improvements and otherwise facilitate good forest land management through a program of financial, technical, and educational assistance, as well as through applied research. The purpose of this program shall be to work cooperatively with private landowners, particularly smaller nonindustrial landowners, to upgrade the management of their lands, and, therefore, improve both the productivity of the land and the degree of protection and enhancement of the forest resource system as a whole. The department is further authorized to encourage and cooperate with efforts by the forestry industry and federal government to improve the management of forest lands within the state, particularly lands owned by nonindustrial owners, through advisory services or other actions. The director shall work cooperatively with other private and public entities and persons, including tree nursery operators, when carrying out this part.

SEC. 3. Section 4793 of the Public Resources Code is amended to read:

4793. As used in this chapter:

(a) ''A county with high unemployment'' means a county with an annual unemployment rate, as reported by the Employment Development Department, higher than the mean annual unemployment rate of ''rate adjustment counties'' as defined pursuant to the Timber Yield Tax Law (Part 18.5 (commencing with Section 38101) of Division 2 of the Revenue and Taxation Code).

(b) ''Eligible landowner'' means any person who meets the conditions set forth in Sections 4797 and 4799. Where ownership of forest land and timber is not held by the same person, ''landowner'' means either the person or persons owning the land or the person or persons owning the timber.

(c) ''Fish and wildlife habitat improvements'' means measures designed to protect, maintain, or enhance fish and wildlife habitat including, but not limited to, stream clearance, reestablishment of desirable vegetation along stream channels and elsewhere, measures to encourage habitat diversity, restoration of anadromous fisheries, and forest road repair and upgrading that protect, maintain, or enhance fish and wildlife habitat.

(d) ''Followup work'' means forest resource improvement work necessary to promote the survival of seed or seedlings planted, or

protection or enhancement of other work undertaken, as part of a prior forest resource improvement project pursuant to this chapter.

(e) ''Forest land'' means land at least 10 percent occupied by trees of any size that are native to California, including native oaks, or formerly having had that tree cover and not currently zoned for uses incompatible with forest resource management.

(f) ''Forest land conservation measures'' means measures designed to protect, maintain, or enhance the forest resource system, including soil and watershed values, diversity of forest species, and protection of a forest stand from fire. These measures include thinning, shaded fuel breaks, and other land treatments or forest resource improvement projects consistent with Section 4794.

(g) ''Forest land with demonstrated potential for improved forest resource management'' means forest land that could produce significantly greater forest resource benefits if forest resource improvement work was carried out and that is not managed for uses incompatible with forest resource management.

(h) ''Forest resources'' means those uses and values associated with forest land, including fish, forage, recreation and aesthetics, soils, timber, watershed, wilderness, and wildlife.

(i) ''Forest resource system'' means the interdependent system of air, water, solar energy, and forest resources, as defined by subdivision (h).

(j) ''Forest resource improvement work'' means the forest resource improvement measures enumerated in Section 4794 for which assistance is authorized pursuant to this chapter.

(k) ''Forest resource improvement project'' means a project undertaken pursuant to Section 4795 or a loan made pursuant to Section 4796.

(*l*) ''Management plan'' means a long-term forest and land management plan submitted to the director pursuant to Section 4799.

(m) ''Person'' includes:

(1) Any private individual, organization, partnership, limited liability company, or corporation.

(2) Except for the purposes of Section 4795 and subdivision (a) of Section 4796, any city, county, or district.

(n) ''Prevailing rate'' means the average annual rate earned by the state on moneys deposited in the Pooled Money Investment Account in the General Fund.

(o) ''Reforestation'' means planting of tree seedlings, cuttings, or seed.

(p) ''Restocked'' means stocking to the degree required by the Z'berg-Nejedly Forest Practice Act of 1973, Chapter 8 (commencing with Section 4511) of Part 2.

(q) ''Small business entity'' means a business enterprise, including a landowner, with five hundred thousand dollars ($500,000) or less annual gross revenue.

(r) ''Smaller nonindustrial landowners'' means owners of 5,000 acres or less of forest land.

(s) ''Uses incompatible with forest resource management'' means uses not listed in subdivision (h) of Section 51104 or Section 51111 of the Government Code by the city or county in which the parcel subject to a forest resource improvement project lies.

(t) ''Young growth stand improvement'' means precommercial thinning or weeding of young growth stands to provide more growing space and release of young trees from competing vegetation.

SEC. 4. Section 4794 of the Public Resources Code is amended to read:

4794. (a) Agreements may be entered into and loans may be made by the director pursuant to this chapter for all of the following purposes:

(1) Preparation of management plans for forest land.

(2) Site preparation.

(3) Planting and costs of seeds and seedlings.

(4) Young growth stand improvement.

(5) Forest land conservation measures.

(6) Fish and wildlife habitat improvement.

(7) Followup work.

Consistent with this section, the director shall prepare, and submit to the board for its review and approval, guidelines further specifying the scope of forest resource improvement work for which agreements may be entered into or loans made pursuant to this chapter.

(b) Proposed forest resource improvement projects may combine work described in paragraphs (1) to (7), inclusive, of subdivision (a). Projects shall include work described in paragraphs (1) to (7), inclusive, of subdivision (a) to be eligible for a cost-sharing agreement signed pursuant to Section 4795 or a loan made pursuant to Section 4796.

(c) Projects for forest resource improvement subsequent to harvesting subject to the Z'berg-Nejedly Forest Practice Act of 1973, Chapter 8 (commencing with Section 4511) of Part 2, shall not be eligible for agreements executed pursuant to Section 4795 or loans made pursuant to Section 4796 of this chapter unless either of the following occur:

(1) The land has been restocked and the established forest growth has subsequently been adversely affected by fire, wind, flood, insects, disease, or other natural causes.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z'berg-Nejedly Forest Practice Act of 1973, Chapter 8 (commencing with Section 4511) of Part 2.

SEC. 5. Section 4799.01 of the Public Resources Code is amended to read:

4799.01. (a) When allocating available funds among projects proposed pursuant to this chapter, the director shall select those projects that, in the judgment of the director, produce the greatest public benefit, giving consideration to both of the following factors:

(1) The need for and potential benefits of forest resource establishment or improvement were the project to be undertaken.

(2) The need for and potential benefits to long-term production, maintenance, and enhancement of the forest resource system resulting from forest land conservation measures, fish and wildlife habitat improvements, or other work.

(b) The director shall give increased preference to projects to the extent that the project applies to forest land that has been substantially damaged by fire, flood, insects, disease, or other natural causes within 36 months of submission of an application pursuant to this chapter.

(c) The director shall also give preference to projects to the extent that each of the following factors are present:

(1) The project involves a substantial amount of followup work.

(2) The project or other actions of the landowner would increase recreational opportunities for the public.

(3) The forest land to which the project applies is equivalent to site quality III or better.

(4) The project would provide relatively more employment opportunities than other proposed projects.

(5) The project is located in a county with high unemployment.

(6) A small business entity will carry out the proposed project.

(d) Consistent with the criteria set forth in subdivisions (a), (b), and (c), the director shall prepare and submit to the board proposed guidelines further specifying the criteria for evaluation and approval of forest resource improvement projects. The board shall review, approve, or amend the guidelines that the director shall follow when carrying out this chapter.

(e) The director shall establish, in consultation with interested persons or agencies and with the review and approval of the board, procedures for the review of proposed forest resource improvement projects. Those procedures shall insure that department specialists and other specialists in the areas of water quality, erosion control, and fish and wildlife protection are integrated into the review of proposed forest resource improvement projects.

(f) No allocation of funds pursuant to this chapter shall, in any fiscal year, exceed the total amount expended during the 1999–2000 fiscal year until the completion, review, and final approval by the board of an

updated management plan for the Jackson Demonstration State Forest that complies with applicable state and federal law.

CHAPTER 410

An act to amend Sections 7863, 8276.2, 8276.3, 8279.1, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, and 8280.6 of, and to add Article 14.5 (commencing with Section 8510) to Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 7863 of the Fish and Game Code is amended to read:

7863. This article shall remain in effect only until January 1, 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. 2. Section 8276.2 of the Fish and Game Code is amended to read:

8276.2. (a) The director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year. The delay in the opening shall not be later than January 15 of any year.

(b) On or about November 1 of each year, the director may authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing according to a testing program conducted by, or on behalf of, the Pacific States Marine Fisheries Commission or an entity approved by the department. The department shall not approve a testing program unless it is funded by the entity authorized to conduct the testing program. Crab taken pursuant to this section shall not be sold; however, any edible crabmeat recovered from the crabs tested shall not be wasted and may be used for charitable purposes.

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate the Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are

conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that no tests shall be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

(d) This section shall become inoperative on April 1, 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. 3. Section 8276.3 of the Fish and Game Code is amended to read:

8276.3. (a) (1) If there is any delay ordered by the director pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Districts 6, 7, 8, and 9, no vessel shall take or land crab within Districts 6, 7, 8, and 9 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Section 8276.2, the opening date in Districts 6, 7, 8, and 9 shall be preceded by a 36-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 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. 4. Section 8279.1 of the Fish and Game Code is amended to read:

8279.1. (a) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters in District 6, 7, 8, or 9 for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes, from ocean waters outside of District 6, 7, 8, or 9, prior to the opening of the season in those districts.

(b) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters south of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in Oregon or Washington prior to the opening of the season in California.

(c) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters north of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in Oregon or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Oregon or Washington.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in California prior to the opening of the season in ocean waters off Oregon or Washington.

(d) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters off Washington, Oregon, or California for 30 days after the opening of the Dungeness crab fishing season in California, Oregon, or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Washington, Oregon, or California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in either of the two other states prior to the delayed opening in the ocean waters off any one of the three states.

(e) A violation of this section shall not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit held by any person who violates this section.

(f) This section shall become inoperative on April 1, 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. 5. Section 8280.1 of the Fish and Game Code is amended to read:

8280.1. (a) No person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked. This section does not apply to a commercially

registered fishing vessel when it is being used solely to assist a permitted vessel transport or set traps.

(b) A Dungeness crab vessel permit may be issued only to the following persons for use on qualifying vessels:

(1) A person, who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel. This paragraph includes any person purchasing a vessel qualifying pursuant to this paragraph.

(2) A person who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section 8046, who the department finds to have been unable, due to illness or injury or any other hardship, to make a minimum of four landings in each of two of the previous three Dungeness crab seasons, and who, in good faith, intended to participate in the Dungeness crab fishery in those seasons.

(3) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets the requirements of Section 8101, and who, notwithstanding Section 8101, is, at the time of application, the owner of a fishing vessel that is not equipped for trawling with a net and that has been registered pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years. Not more than one Dungeness crab vessel permit shall be issued to any person qualifying under Section 8101 and all permits issued under Section 8101 shall, notwithstanding paragraph (1) of subdivision (a) of Section 8280.3, be nontransferable. A person qualifying for a permit under this paragraph shall have participated in the Dungeness crab fishery on or before March 31, 1994, as documented by landing receipts that were prepared in that person's name for not less than four landings of Dungeness crab taken in a crab trap in a Dungeness crab season and were delivered to the department pursuant to Section 8046. No person shall be issued a permit under this paragraph if that person has been issued a permit under any other provision of this section for another vessel. For purposes of Section 8101, ''participated in the fishery''

means made not less than four landings of Dungeness crab taken by traps in that person's name in one Dungeness crab season. The department shall separately identify permits issued pursuant to this paragraph and those permits shall become immediately null and void upon the death of the permittee. The department shall not issue or renew any permit under this paragraph to a person if the person failed to meet the participation requirements of four landings in one season prior to April 1, 1994, or has been issued a Dungeness crab permit for a vessel under any other paragraph of this subdivision.

(4) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets one of the following conditions:

(A) The person held a Dungeness crab permit issued pursuant to Section 8280 as it read on April 1, 1994, and participated in the Dungeness crab fishery between November 1, 1984, and April 1, 1994, and is the owner of a vessel that has been registered with the department in each of the 1991–92, 1992–93, and 1993–94 permit years but did not make landings or the department records do not indicate a minimum of four landings per season for three Dungeness crab seasons from that vessel or in that person's name because of a partnership or other working arrangement where the person was working aboard another vessel engaged in the Dungeness crab fishery in California.

(B) The person held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, and is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and from which a minimum of four landings utilizing traps were made in at least one Dungeness crab season in the period between November 1, 1984, and April 1, 1994, and from which either four landings were made utilizing traps or landings in excess of 10,000 pounds were made utilizing traps in each of two other Dungeness crab seasons in that same period, as documented by landing receipts.

(C) The person held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, or was an officer in a California corporation that was licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 as of April 1, 1994, and began construction or reconstruction of a vessel on or before January 1, 1992, for the purpose of engaging in the Dungeness crab fishery, including the purchase of equipment and gear to engage in that fishery in California. A person may be issued a permit under this condition only if the person intended in good faith to participate in the California Dungeness crab fishery, a denial of a permit would create a financial hardship on that person, and, for purposes of determining financial hardship, the applicant is a nonresident and cannot participate with his or her vessel or vessels in the

Dungeness crab fishery of another state because of that state's limited entry or moratorium on the issuance of permits for the taking of Dungeness crab.

(5) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings of Dungeness crab taken by traps in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, in his or her name in this state from a vessel owned by that person, as documented by landing receipts, who, between April 1, 1991, and January 1, 1995, purchased, contracted to purchase, or constructed a vessel, not otherwise qualifying pursuant to paragraph (1), (2), or (4), who has continuously owned that vessel since its purchase or construction, and who either (A) has used that vessel for the taking of Dungeness crab in this state on or before March 31, 1995, as documented by one or more landing receipts delivered to the department pursuant to Section 8046, or (B) intended in good faith, based on evidence that the department and the review panel may require, including investment in crab gear, to enter that vessel in this state's Dungeness crab fishery not later than December 1, 1995. Not more than one permit may be issued to any one person under this paragraph.

(6) A person who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings utilizing traps in this state in each of three Dungeness crab seasons in the period between November 1, 1984, and April 1, 1994, in his or her name from a vessel operated by that person as documented by landing receipts, who currently does not own a vessel in his or her name, and who has not sold or transferred a vessel otherwise qualifying for a permit under this section. A permit may be issued under this paragraph for a vessel not greater in size than the vessel from which the previous landings were made, and, in no event, for a vessel of more than 60 feet in overall length, to be placed on a vessel that the person purchases or contracts for construction on or before April 1, 1996. A permit issued under this paragraph shall be nontransferable and shall not be used for a vessel not owned by that person, and shall be revoked if the person (A) fails to renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 or (B) is or becomes the owner of another vessel permitted to operate in the Dungeness crab fishery pursuant to this section.

(c) The department may require affidavits offered under penalty of perjury from persons applying for permits under subdivision (b) or from witnesses corroborating the statements of a person applying for a Dungeness crab vessel permit. Affidavits offered under penalty of

perjury shall be required of an applicant if the department cannot locate records required to qualify under subdivision (b).

(d) No person shall be issued a Dungeness crab vessel permit under this section for any vessel unless that person has a valid commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked.

(e) Notwithstanding Section 7852.2 or subdivision (e) of Section 8280.2, the department may issue a Dungeness crab vessel permit that has not been applied for by the application deadline if the department finds that the failure to apply was a result of a mistake or hardship, as established by evidence the department may require, the late application is made not later than October 15, 1995, and payment is made by the applicant of a late fee of two hundred fifty dollars ($250) in addition to all other fees for the permit.

(f) The department may waive the requirement that a person own a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years for one of those required years under this section only if the vessel was registered and used in the California Dungeness crab fishery during the registration year immediately prior to the year for which the waiver is sought and was registered and used in the California Dungeness crab fishery after the year for which the waiver is sought and if the reason for the failure to register in the year for which the waiver is sought was due to a death, illness, or injury, or other hardship, as determined by the review panel, that prevented the vessel from being registered and operated in the fishery for that registration year.

(g) If any person submits false information for the purposes of obtaining a Dungeness crab vessel permit under this section, the department shall revoke that permit, if issued, revoke the person's commercial fishing license that was issued pursuant to Section 7850 for a period of not less than five years, and revoke the commercial boat registration for a period of not less than five years of any vessel registered to that person pursuant to Section 7881 of which that person is the owner.

(h) This section shall become inoperative on April 1, 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. 6. Section 8280.2 of the Fish and Game Code is amended to read:

8280.2. (a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification

criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

(b) A Dungeness crab vessel permit shall be issued only to the person owning the vessel at the time of application for that permit. No person shall be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to Section 8280.1.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. No permit shall be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of Section 8280.1. No trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall be required to possess a Dungeness crab vessel permit.

(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 7881. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 7852 that has not been suspended or revoked. No minimum landings of Dungeness crab shall be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 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. 7. Section 8280.3 of the Fish and Game Code is amended to read:

8280.3. (a) Notwithstanding Article 9 (commencing with Section 8100) of Chapter 1 and except as provided in this section, a Dungeness crab vessel permit shall not be transferred.

(1) The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to Section 8280.1 for the use of that vessel in subsequent years. The person purchasing the vessel may

not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(2) The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this section. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 8280.6, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to Section 8280.1 for the use of that replacement vessel in subsequent years.

The owner of a permitted vessel may transfer the permit to a vessel of greater capacity that was owned by that person on or before November 15, 1995, not to exceed 10 feet longer in length overall than the vessel for which the permit was originally issued or to a vessel of greater capacity purchased after November 15, 1995, not to exceed five feet longer in length overall than the vessel for which the permit was originally issued.

The department, upon recommendation of the Dungeness crab review panel, may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by that person on or before April 1, 1996, that does not fish with trawl nets that is greater than five feet longer in length overall than the vessel for which the permit was originally issued, if all of the following conditions are satisfied:

(A) A vessel of a larger size is essential to the owner for participation in another fishery other than a trawl net fishery.

(B) The owner held a permit on or before January 1, 1995, for the fishery for which a larger vessel is needed and has participated in that fishery.

(C) The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of Section 8280.1.

(D) The vessel to which the permit is to be transferred does not exceed 20 feet longer in length overall than the vessel for which the permit was originally issued and the vessel to which the permit is to be transferred does not exceed 60 feet in overall length.

No transfer of a permit to a larger vessel shall be allowed more than one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel permit for that permit year or any subsequent permit years for that larger vessel may not be transferred to another larger vessel. The department shall not thereafter issue a Dungeness crab vessel permit for the use of the original vessel from which the permit was transferred, except that the original vessel may be used to take or land Dungeness crab after that transfer if its use is authorized pursuant to another

Dungeness crab vessel permit subsequently transferred to that vessel pursuant to this paragraph.

(3) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may temporarily transfer the permit to another replacement vessel, for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1, for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. Upon approval by the director, the owner of a lost or destroyed vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

(4) Upon written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may retain that permit upon the sale of that permitted vessel for the purpose of transferring the permit to another vessel to be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued if the requirements of this section are satisfied, including the payment of transfer fees. If the permit is not transferred to a new vessel owned by the person to whom the vessel permit was originally issued within one year of the sale of the vessel for which it was originally issued, or if the person does not retain ownership of the new vessel to which the permit is transferred for a period of not less than one year, the permit shall be revoked.

(5) In the event of the death or incapacity of a permitholder, the permit shall be transferred, upon application, to the heirs or assigns, or to the working partner, of the permitholder, together with the transfer of the vessel for which the permit was issued, and the new owner may continue to operate the vessel under the permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to paragraph (1).

(b) This section shall become inoperative on April 1, 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. 8. Section 8280.4 of the Fish and Game Code is amended to read:

8280.4. (a) The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and

the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

(b) This section shall become inoperative on April 1, 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. 9. Section 8280.5 of the Fish and Game Code is amended to read:

8280.5. (a) The director shall convene a Dungeness crab review panel for the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and applications for permit transfers pursuant to Section 8280.3 if the department determines that the additional review and advice of the panel will be helpful in deciding whether to issue a permit or approve a transfer.

(b) The panel shall consist of one nonvoting representative of the department and three public voting members selected by the director to represent the Dungeness crab fishing industry. One public member shall be licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 and active in Dungeness crab processing in this state. Two public members shall be licensed pursuant to Section 7852, one from Sonoma County or a county south of Sonoma County, and one from Mendocino County or a county north of Mendocino County, and active in the taking and landing of Dungeness crab in this state. The public members shall be reimbursed for their necessary and proper expenses to participate on the panel. A public member shall serve on the panel for not more than four consecutive years.

(c) The panel may conduct its review of applications referred to it by mail or teleconference.

(d) The panel shall review each application for a permit or permit transfer referred to it by the department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

(e) All appeals of denials of Dungeness crab vessel permits shall be made to the commission and may be heard by the commission if the appeal of denial is filed in writing with the commission not later than 90 days from the date of a permit denial. The commission may order the department to issue a permit upon appeal if the commission finds that the appellant qualified for a permit under this chapter.

(f) This section shall become inoperative on April 1, 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. 10. Section 8280.6 of the Fish and Game Code is amended to read:

8280.6. (a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars ($200) for a resident of California and four hundred dollars ($400) for a nonresident of California.

(b) The department shall charge a nonrefundable fee of two hundred dollars ($200) for each transfer of a permit authorized pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section 8280.3.

(c) This section shall become inoperative on April 1, 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. 10.5. Article 14.5 (commencing with Section 8510) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 14.5. Krill

8510. (a) It is unlawful to take or land krill of the genus Thysanoessa or the genus Euphausia for commercial purposes except under regulations adopted by the commission.

(b) Notwithstanding subdivision (a), krill of the genus Thysanoessa or the genus Euphausia shall not be taken or landed for commercial purposes before January 1, 2011.

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 411

An act to amend Sections 14400, 14405, 14800, 14860 of, and to repeal Sections 14864 and 15256 of, the Financial Code, and to amend Section 1648 of the Insurance Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 2000. Filed with
Secretary of State September 12, 2000.]

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

SECTION 1. Section 14400 of the Financial Code is amended to read:

14400. (a) The savings capital of a credit union shall consist of the payments made by members on shares as set forth in the credit union's written savings capital structure policy pursuant to Section 14862.

(b) The equity capital of the credit union shall consist of the credit union's regular reserve account, the undivided earnings account, any appropriated undivided earnings accounts, and other forms of capital approved by the commissioner.

SEC. 2. Section 14405 of the Financial Code is amended to read:

14405. Every credit union may:

(a) (1) Become a member of any organization or organizations composed of credit unions, credit associations, chambers of commerce, or financial institutions.

(2) Become a member of any nonprofit organization approved by the board of directors.

(b) Pay dues and assessments as may be levied upon it by any organization of which it is a member.

SEC. 3. Section 14800 of the Financial Code is amended to read:

14800. (a) Every credit union may admit to membership those persons qualified for membership upon the occurrence of any of the following:

(1) Upon the purchase of a membership in the credit union as provided in the credit union's bylaws.

(2) Upon the payment of an entrance fee established from time to time by the board of directors.

(3) Upon the purchase of one or more shares in the credit union as provided in the credit union's bylaws.

(b) No officer, director, committee member, or employee of any credit union shall approve a person for admission to membership or admit an applicant for membership in the credit union or extend any benefit or service of the credit union to any person, unless that person is admitted to membership in the credit union pursuant to subdivision (a).

(c) Nothing in subdivisions (a) and (b) shall be construed to limit the powers of a credit union to engage in joint service programs or business relationships for the benefit of their members where some incidental benefit may flow to third parties to the transaction or the authority for a credit union to engage in joint loan programs pursuant to Section 14959.

(d) Nothing in this section prohibits a credit union from admitting to membership a corporation in which the credit union holds shares pursuant to Section 14650 or a corporation formed to provide services to credit unions or to credit union members in which the credit union holds shares or a limited liability company formed to provide services to credit unions or to credit union members in which the credit union holds membership or economic interests pursuant to Section 14651.

SEC. 4. Section 14860 of the Financial Code is amended to read:

14860. Except as provided in this section and Part 2 (commencing with Section 5100) of Division 5 of the Probate Code, no credit union shall exercise trust powers except upon qualifying as a trust company pursuant to Division 1 (commencing with Section 99).

(a) Notwithstanding any other provisions of law relating to trusts and trust authority, subject to the regulations of the commissioner, a credit union may act as a trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States which is a part of a pension plan for its members or groups or organizations of its members, which qualifies or has qualified for specific tax treatment under Section 401, 408, 408A, 457, or 530 of the Internal Revenue Code, Title 26 of the United States Code, or any deferred compensation plan for the benefit of the credit union's employees, provided the funds received pursuant to these plans are invested as provided in Section 16040 of the Probate Code. All funds held by a credit union as trustee or in a custodial capacity shall be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over the trust or custodial accounts. The credit union shall maintain individual records for each participant or beneficiary that show in detail all transactions relating to the funds of each participant or beneficiary.

The trust instrument or agreement shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation, or organization other than the credit union or any person acting in his or her capacity as a director, employee, or agent of the credit union, upon notice from the credit union or the commissioner that the credit union is unwilling or unable to continue to act as trustee or custodian.

(b) Shares may be issued in a revocable or irrevocable trust subject to the following:

(1) When shares are issued in a revocable trust, the settlor shall be a member of the credit union issuing the shares in his or her own right. If the trust has joint settlers, who are husband and wife, then only one settlor need be a member of the credit union.

(2) When shares are issued in an irrevocable trust, the settlor or the beneficiary shall be a member of this credit union in his or her own right. For purposes of this section, shares issued pursuant to a pension plan authorized by this section shall be treated as an irrevocable trust unless otherwise indicated in rules and regulations issued by the commissioner.

(3) This subdivision does not apply to trust accounts established prior to the effective date of this subdivision.

SEC. 5. Section 14864 of the Financial Code is repealed.

SEC. 6. Section 15256 of the Financial Code is repealed.

SEC. 7. Section 1648 of the Insurance Code is amended to read:

1648. (a) An unincorporated association or nonprofit corporation that is not the holder of a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 is not eligible for a license under this article unless each member thereof possesses an individual license to transact each class of insurance authorized by the license or is a natural person named on the license to transact thereunder.

(b) This section is not applicable to any nonprofit cemetery company exempt from the taxes imposed by Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code under the provisions of Section 23701c of the Revenue and Taxation Code.

(c) This section is not applicable to any state chartered credit union, except that any officer, director, or employee of the credit union who transacts insurance shall be licensed pursuant to this article.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the validity of the increasing number of account agreements or loan agreements entered into through electronic commerce, and to provide credit unions with necessary authority to service their present and future customers, it is necessary that this act take effect immediately.

CHAPTER 412

An act to amend Sections 55901, 55922, 56631, and 56652 of the Food and Agricultural Code, relating to farm products.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 55901 of the Food and Agricultural Code is amended to read:

55901. Except as specified in Section 55902, any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 1.5. Section 55901 of the Food and Agricultural Code is amended to read:

55901. (a) Except as specified in Section 55902, any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall adopt regulations to implement this subdivision by June 1, 2002.

SEC. 2. Section 55922 of the Food and Agricultural Code is amended to read:

55922. Any person that violates any provision of this chapter is liable civilly in the sum of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000) for each and every violation, this sum to be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 2.5. Section 55922 of the Food and Agricultural Code is amended to read:

55922. (a) Any person that violates any provision of this chapter is liable civilly in the sum of five hundred dollars ($500) or more than one thousand dollars ($1,000) for each and every violation, this sum to be recovered in an action by the secretary in any court of competent

jurisdiction. All sums which are recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.

SEC. 3. Section 56631 of the Food and Agricultural Code is amended to read:

56631. Except as specified in Section 56632, any misdemeanor which is prescribed in this article is punishable by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 3.5. Section 56631 of the Food and Agricultural Code is amended to read:

56631. (a) Except as specified in Section 56632, any misdemeanor which is prescribed in this article is punishable by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.

SEC. 4. Section 56652 of the Food and Agricultural Code is amended to read:

56652. Any person that violates any provision of this chapter is liable civilly in the sum of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000) for each and every violation. This sum shall be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered pursuant to this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 4.5. Section 56652 of the Food and Agricultural Code is amended to read:

56652. (a) Any person that violates any provision of this chapter is liable civilly in the sum of five hundred dollars ($500) or more than one thousand dollars ($1,000) for each and every violation. This sum shall be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered pursuant to this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 55901 of the Food and Agricultural Code proposed by both this bill and SB 1535. 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 55901 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 55922 of the Food and Agricultural Code proposed by both this bill and SB 1535. 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 55922 of the Food and Agricultural Code, and (3) this bill is

enacted after SB 1535, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 56631 of the Food and Agricultural Code proposed by both this bill and SB 1535. 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 56631 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 56652 of the Food and Agricultural Code proposed by both this bill and SB 1535. 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 56652 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 4 of this bill shall not become operative.

CHAPTER 413

An act to amend Section 1812.201 of the Civil Code, relating to seller assisted marketing plans.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 1812.201 of the Civil Code is amended to read:

1812.201. For the purposes of this title, the following definitions shall apply:

(a) ''Seller assisted marketing plan'' means any sale or lease or offer to sell or lease any product, equipment, supplies, or services that requires a total initial payment exceeding five hundred dollars ($500), but requires an initial cash payment of less than fifty thousand dollars ($50,000), that will aid a purchaser or will be used by or on behalf of the purchaser in connection with or incidental to beginning, maintaining, or operating a business when the seller assisted marketing plan seller has advertised or in any other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

(1) Represented that the purchaser will earn, is likely to earn, or can earn an amount in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan.

(2) Represented that there is a market for the product, equipment, supplies, or services, or any product marketed by the user of the product, equipment, supplies, or services sold or leased or offered for sale or lease to the purchaser by the seller, or anything, be it tangible or intangible, made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services that were sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

(3) Represented that the seller will buy back or is likely to buy back any product made, produced, fabricated, grown, or bred by the purchaser using, in whole or in part, the product, supplies, equipment, or services that were initially sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

(b) A ''seller assisted marketing plan'' shall not include:

(1) A security, as defined in the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), that has been qualified for sale by the Department of Corporations, or is exempt under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code from the necessity to qualify.

(2) A franchise defined by the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) that is registered with the Department of Corporations or is exempt under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 of the Corporations Code from the necessity of registering.

(3) Any transaction in which either the seller or purchaser or the lessor or lessee is licensed pursuant to and the transaction is governed by the Real Estate Law, Division 4 (commencing with Section 10000) of the Business and Professions Code.

(4) A license granted by a general merchandise retailer that allows the licensee to sell goods, equipment, supplies, products, or services to the general public under the retailer's trademark, trade name, or service mark if all of the following criteria are satisfied:

(A) The general merchandise retailer has been doing business in this state continually for five years prior to the granting of the license.

(B) The general merchandise retailer sells diverse kinds of goods, equipment, supplies, products, or services.

(C) The general merchandise retailer also sells the same goods, equipment, supplies, products, or services directly to the general public.

(D) During the previous 12 months the general merchandise retailer's direct sales of the same goods, equipment, supplies, products, or services to the public account for at least 50 percent of its yearly sales of these goods, equipment, supplies, products, or services made under the retailer's trademark, trade name, or service mark.

(5) A newspaper distribution system distributing newspapers as defined in Section 6362 of the Revenue and Taxation Code.

(6) A sale or lease to an existing or beginning business enterprise that also sells or leases equipment, products, supplies, or performs services that are not supplied by the seller and that the purchaser does not utilize with the equipment, products, supplies, or services of the seller, if the equipment, products, supplies, or services not supplied by the seller account for more than 25 percent of the purchaser's gross sales.

(7) The sale in the entirety of an ''ongoing business.'' For purposes of this paragraph, an ''ongoing business'' means a business that for at least six months previous to the sale has been operated from a particular specific location, has been open for business to the general public, and has had all equipment and supplies necessary for operating the business located at that location. The sale shall be of the entire ''ongoing business'' and not merely a portion of the ongoing business.

(8) A sale or lease or offer to sell or lease to a purchaser (A) who has for a period of at least six months previously bought products, supplies, services, or equipment that were sold under the same trademark or trade name or that were produced by the seller and, (B) who has received on resale of the product, supplies, services, or equipment an amount that is at least equal to the amount of the initial payment.

(9) The renewal or extension of an existing seller assisted marketing plan contract.

(10) A product distributorship that meets each of the following requirements:

(A) The seller sells products to the purchaser for resale by the purchaser, and it is reasonably contemplated that substantially all of the purchaser's sales of the product will be at wholesale.

(B) The agreement between the parties does not require that the purchaser pay the seller, or any person associated with the seller, a fee or any other payment for the right to enter into the agreement, and does not require the purchaser to buy a minimum or specified quantity of the products, or to buy products for a minimum or specified period of time. For purposes of this paragraph, a ''person associated with the seller'' means a person, including an individual or a business entity, controlling, controlled by, or under the same control as the seller.

(C) The seller is a corporation, partnership, limited liability company, joint venture, or any other business entity.

(D) The seller has a net worth of at least ten million dollars ($10,000,000) according to audited financial statements of the seller done during the 18 months preceding the date of the initial sale of products to the purchaser. Net worth may be determined on a consolidated basis if the seller is a subsidiary of another business entity that is permitted by generally accepted accounting standards to prepare

financial statements on a consolidated basis and that business entity absolutely and irrevocably agrees in writing to guarantee the seller's obligations to the purchaser. The seller's net worth shall be verified by a certification to the Attorney General from an independent certified public accountant that the audited financial statement reflects a net worth of at least ten million dollars ($10,000,000). This certification shall be provided within 30 days following receipt of a written request from the Attorney General.

(E) The seller grants the purchaser a license to use a trademark that is registered under federal law.

(F) It is not an agreement or arrangement encouraging a distributor to recruit others to participate in the program and compensating the distributor for recruiting others into the program or for sales made by others recruited into the program.

(c) ''Person'' includes an individual, corporation, partnership, limited liability company, joint venture, or any business entity.

(d) ''Seller'' means a person who sells or leases or offers to sell or lease a seller assisted marketing plan and who meets either of the following conditions:

(1) Has sold or leased or represents or implies that the seller has sold or leased, whether in California or elsewhere, at least five seller assisted marketing plans within 24 months prior to a solicitation.

(2) Intends or represents or implies that the seller intends to sell or lease, whether in California or elsewhere, at least five seller assisted marketing plans within 12 months following a solicitation.

For purposes of this title, the seller is the person to whom the purchaser becomes contractually obligated. A ''seller'' does not include a licensed real estate broker or salesman who engages in the sale or lease of a ''business opportunity'' as that term is used in Sections 10000 to 10030, inclusive, of the Business and Professions Code, or elsewhere in Chapter 1 (commencing with Section 10000), Chapter 2 (commencing with Section 10050), or Chapter 6 (commencing with Section 10450) of Part 1 of Division 4 of the Business and Professions Code.

(e) ''Purchaser'' means a person who is solicited to become obligated or does become obligated on a seller assisted marketing plan contract.

(f) ''Equipment'' includes machines, all electrical devices, video or audio devices, molds, display racks, vending machines, coin operated game machines, machines that dispense products, and display units of all kinds.

(g) ''Supplies'' includes any and all materials used to produce, grow, breed, fabricate, modify, develop, or make any product or item.

(h) ''Product'' includes any tangible chattel, including food or living animals, that the purchaser intends to:

(1) Sell or lease.

(2) Use to perform a service.

(3) Resell or attempt to resell to the seller assisted marketing plan seller.

(4) Provide or attempt to provide to the seller assisted marketing plan seller or to any other person whom the seller suggests the purchaser contact so that the seller assisted marketing plan seller or that other person may assist, either directly or indirectly, the purchaser in distributing, selling, leasing, or otherwise disposing of the product.

(i) ''Services'' includes any assistance, guidance, direction, work, labor, or services provided by the seller to initiate or maintain or assist in the initiation or maintenance of a business.

(j) ''Seller assisted marketing plan contract'' or ''contract'' means any contract or agreement that obligates a purchaser to a seller.

(k) ''Initial payment'' means the total amount a purchaser is obligated to pay to the seller under the terms of the seller assisted marketing plan contract prior to or at the time of delivery of the equipment, supplies, products, or services or within six months of the purchaser commencing operation of the seller assisted marketing plan. If the contract sets forth a specific total sale price for purchase of the seller assisted marketing plan which total price is to be paid partially as a downpayment and then in specific monthly payments, the ''initial payment'' means the entire total sale price.

(*l*) ''Initial cash payment'' or ''downpayment'' means that portion of the initial payment that the purchaser is obligated to pay to the seller prior to or at the time of delivery of equipment, supplies, products, or services. It does not include any amount financed by or for which financing is to be obtained by the seller, or financing that the seller assists in obtaining.

(m) ''Buy-back'' or ''secured investment'' means any representation that implies in any manner that the purchaser's initial payment is protected from loss. These terms include a representation or implication of any of the following:

(1) That the seller may repurchase either all or part of what it sold to the purchaser.

(2) That the seller may at some future time pay the purchaser the difference between what has been earned and the initial payment.

(3) That the seller may in the ordinary course buy from the purchaser items made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services that were initially sold or leased to the purchaser by the seller.

(4) That the seller or a person to whom the seller will refer the purchaser may in the ordinary course sell, lease, or distribute the items the purchaser has for sale or lease.

CHAPTER 414

An act to amend Sections 19033 and 21007 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. It is the intent of the Legislature that the amendments made by this act is to clarify the power of the Franchise Tax Board to issue deficiency assessments after the holding in John E. Wertin, et al. v. Franchise Tax Board, (1998) 68 Cal.App.4th 961.

SEC. 2. Section 19033 of the Revenue and Taxation Code is amended to read:

19033. (a) If the Franchise Tax Board determines that the tax disclosed by the taxpayer on an original or amended return, including an amended return reporting federal adjustments pursuant to Section 18622, is less than the tax disclosed by its examination, it shall mail notice to the taxpayer of the deficiency proposed to be assessed. In no case shall the determination of the deficiency be arbitrary or without foundation.

(b) (1) Except as provided in paragraph (2), the Franchise Tax Board, in connection with the determination described in subdivision (a), shall examine the original or amended return or related electronically stored return data.

(2) If the return or return data described in paragraph (1) has been destroyed or cannot be located after reasonable effort, the Franchise Tax Board shall request the taxpayer to provide a paper or electronic copy of the return. If the taxpayer fails to provide a copy within 30 days, which may be extended an additional 30 days for reasonable cause, from the date of the request, paragraph (1) shall not apply.

(c) As used in this section, ''electronically stored return data'' means an electronic record of line items from an original or amended return and accompanying schedules that is routinely created as a return is processed.

(d) The amendments to this section made by the act adding this subdivision shall apply to notices of deficiencies proposed to be assessed issued on or after January 1, 2001.

SEC. 3. Section 21007 of the Revenue and Taxation Code is amended to read:

21007. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, these statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include an appropriate statement in the tax booklets which are mailed annually to individuals and corporations. The board also shall include an appropriate statement in the tax booklets informing taxpayers they may be requested by the board to furnish a copy of California or federal tax returns that are the subject of or related to a federal audit.

CHAPTER 415

An act to amend Section 6810 of the Corporations Code, and to amend Sections 19411 and 23188 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 6810 of the Corporations Code is amended to read:

6810. (a) Upon the failure of a corporation to file the statement required by Section 6210, the Secretary of State shall mail a notice of that delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 6210 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of the corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 19141 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights, and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 6210. The Secretary of State need not mail a form pursuant to Section 6210 to a corporation the corporate powers, rights, and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file a statement required by Section 6210 is excusable because of reasonable cause or unusual circumstances that justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC. 2. Section 19411 of the Revenue and Taxation Code is amended to read:

19411. The Franchise Tax Board may recover any refund or credit or any portion thereof which is erroneously made or allowed, together with interest at the adjusted annual rate established pursuant to Section 19521 beginning 30 days after the board mails a notice and demand for repayment, in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California within whichever of the following periods expires the later:

(a) Two years after the refund or credit was made.

(b) During the period within which the Franchise Tax Board may mail a notice of proposed deficiency assessment.

SEC. 3. Section 23188 of the Revenue and Taxation Code is amended to read:

23188. In the event that taxes, interest, or penalties have been or shall be assessed against, paid by, or collected from a taxpayer under a subdivision of Section 23181 or 23183.1, which assessment, payment, or collection should have been made under a different subdivision of those sections, the taxes, interest, or penalties shall be considered as having been assessed, paid, or collected under that different subdivision as of the date or dates they were made.

CHAPTER 416

An act to amend Sections 4701, 4705, 4710, 4710.5, 4710.6, 4710.7, 4710.8, 4711, 4711.5, 4712, 4712.2, 4712.5 of, and to add Section 4702.7 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 4701 of the Welfare and Institutions Code is amended to read:

4701. ''Adequate notice'' means a written notice informing the applicant, recipient, and authorized representative of at least all of the following:

(a) The action that the service agency proposes to take, including a statement of the basic facts upon which the service agency is relying.

(b) The reason or reasons for that action.

(c) The effective date of that action.

(d) The specific law, regulation, or policy supporting the action.

(e) The responsible state agency with whom a state appeal may be filed, including the address of the state agency director.

(f) That if a fair hearing is requested, the claimant has the following rights:

(1) The opportunity to be present in all proceedings and to present written and oral evidence.

(2) The opportunity to confront and cross-examine witnesses.

(3) The right to appear in person with counsel or other representatives of his or her own choosing.

(4) The right to access to records pursuant to Article 5 (commencing with Section 4725).

(5) The right to an interpreter.

(g) Information on availability of advocacy assistance, including referral to the developmental center or regional center clients' rights advocate, area board, publicly funded legal services corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. Sec. 6000 et seq.).

(h) The fair hearing procedure, including deadlines, access to service agency records under Article 5 (commencing with Section 4725), the opportunity to request an informal meeting to resolve the issue or issues, and the opportunity to request mediation which shall be voluntary for both the claimant and the service agency.

(i) If the claimant has requested an informal meeting, information that it shall be held within 10 days of the date the hearing request form is received by the service agency.

(j) The option of requesting mediation prior to a fair hearing, as provided in Section 4711.5. Nothing in this section shall preclude the claimant or his or her authorized representative from proceeding directly to a fair hearing in the event that mediation is unsuccessful.

(k) The fair hearing shall be completed and a final administrative decision rendered within 90 days of the date the hearing request form is received by the service agency, unless the fair hearing request has been withdrawn or the time period has been extended in accordance with this chapter.

(*l*) Prior to a voluntary informal meeting, voluntary mediation or a fair hearing, the claimant or his or her authorized representative shall have the right to examine any or all documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

(m) An explanation that a request for mediation may constitute a waiver of the rights of a medicaid home and community-based waiver participant to receive a fair hearing decision within 90 days of the date the hearing request form is received by the service agency, as specified in subdivision (c) of Section 4711.5.

(n) That if a request for a fair hearing by a recipient is postmarked or received by a service agency no later than 10 days after receipt of the notice of the proposed action mailed pursuant to subdivision (a) of Section 4710, current services shall continue as provided in Section 4715. The notice shall be in clear, nontechnical language in English. If the claimant or authorized representative does not comprehend English, the notice shall be provided in such other language as the claimant or authorized representative comprehends.

(o) A statement indicating whether the recipient is a participant in the home and community-based services waiver.

SEC. 2. Section 4702.7 is added to the Welfare and Institutions Code, to read:

4702.7. For purposes of this section, ''medicaid home and community-based waiver participant'' means an individual deemed eligible and receiving services through the Medicaid Home and Community-based waiver program.

SEC. 3. Section 4705 of the Welfare and Institutions Code is amended to read:

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate regulations to implement this chapter by July 1, 1999, which shall be binding on every service agency.

Any public or private agency receiving state funds for the purpose of serving persons with developmental disabilities not otherwise subject to the provisions of this chapter shall, as a condition of continued receipt of state funds, adopt and periodically review a written internal grievance procedure.

(b) An agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

(c) The service agency's mediation and fair hearing procedure shall be stated in writing, in English and any other language that may be appropriate to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

(d) All recipients and applicants, and persons having legal responsibility for recipients or applicants, shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the service agency's mediation and fair hearing procedure when they apply for service, when they are denied service, and when notice of service modification is given pursuant to Section 4710.

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the local area board and the clients' right advocate assigned to the regional center or developmental center shall be notified, and the area board may appoint a person or agency as representative, pursuant to Section 4590, to assist the claimant in the mediation and fair hearing procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

SEC. 4. Section 4710 of the Welfare and Institutions Code is amended to read:

4710. (a) Adequate notice shall be sent to the applicant or recipient and the authorized representative, if any, by certified mail at least 30 days prior to any of the following actions:

(1) The agency makes a decision without the mutual consent of the service recipient or authorized representative to reduce, terminate, or change services set forth in an individual program plan.

(2) A recipient is determined to be no longer eligible for agency services.

(b) Adequate notice shall be sent to the recipient and the authorized representative, if any, by certified mail no more than five working days after the agency makes a decision without the mutual consent of the recipient or authorized representative, if any, to deny the initiation of a service or support requested for inclusion in the individual program plan.

(c) If the reason for denial of services or modification of services in a recipient's individual program plan is a lack of funds in the regional center budget, the regional center shall be the service agency responsible for giving adequate notice and participating in the fair hearing procedure under this chapter.

(d) The regional center shall, within 30 days after written notice is mailed to the applicant or client, notify the department in writing of the denial if a lack of funds in the regional center budget is the reason for one of the following:

(1) The denial of services to an applicant.

(2) The denial of services to a current regional center client requesting services not included in the client's individual program plan but determined to be necessary by the interdisciplinary team.

(3) Denial, cutback, or termination of current services to a recipient set forth in the individual program plan.

The notification to the department shall include the nature of the service requested, a request that the department allocate sufficient funds to the regional center within 30 days to provide the service, the projected cost for the service for the balance of the fiscal year, and information substantiating the reason for the lack of funds to purchase the service.

(e) If a person requests regional center services and is found to be ineligible for these services, the regional center shall give adequate notice pursuant to Section 4701. Notice shall be sent within five working days of the time limits set forth in Sections 4642 and 4643.

(f) The advance notice specified in subdivision (a) shall not be required when a reduction, termination, or change in services is determined to be necessary for the health and safety of the recipient. However, adequate notice shall be given within 10 days after the service agency action.

SEC. 5. Section 4710.5 of the Welfare and Institutions Code is amended to read:

4710.5. (a) Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with any decision or action of the service agency which he or she believes to be illegal, discriminatory, or not in the recipient's or applicant's best interests, shall, upon filing a request within 30 days after notification of the decision or action complained of, be afforded an opportunity for a fair hearing. The opportunity to request a voluntary informal meeting and an opportunity for mutually agreed upon voluntary mediation shall also be offered at this time.

(b) The request for a fair hearing and for mediation, or for a voluntary informal meeting, or any combination thereof, shall be stated in writing on a hearing request form provided by the service agency.

(c) If any person makes a request for mediation or a fair hearing other than on the hearing forms, the employee of the service agency who hears or receives the request shall provide the person with a hearing request form and shall assist the person in filling out the form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(d) The hearing request form shall be directed to the director of the service agency responsible for the action complained of under subdivision (a). The service agency director shall simultaneously facsimile (FAX) a copy of the hearing request form to the department and the director of the responsible state agency or his or her designee pursuant to Section 4704.5 within five working days of the service agency director's receipt of the request. The department shall keep a file of all hearing request forms.

SEC. 6. Section 4710.6 of the Welfare and Institutions Code is amended to read:

4710.6. (a) Upon receipt by the service agency director of the hearing request form requesting a fair hearing, mediation, or a voluntary informal meeting, the service agency director shall immediately provide adequate notice pursuant to Section 4701 to the claimant, the claimant's guardian or conservator, parent of a minor, and authorized representative of the claimant's rights in connection with the fair hearing, mediation, or informal meeting. If an informal meeting is requested by the claimant, the service agency and the claimant shall determine a mutually agreed upon time for the meeting. The service agency shall notify the claimant of the date upon which his or her hearing request form was received by the service agency.

(b) The written notice shall also confirm the mutually agreed upon date, time, and place for a voluntary informal meeting, if desired by the claimant or his or her authorized representative, with the service agency

director or the director's designee. The written notice shall also state that the claimant or his or her authorized representative may decline an informal meeting.

(c) The written notification of rights required pursuant to subdivision (a) shall not be required if the service agency includes written notification of those rights with the notice required by Section 4710.

SEC. 7. Section 4710.7 of the Welfare and Institutions Code is amended to read:

4710.7. (a) Upon requesting a fair hearing, the claimant has the right to request a voluntary informal meeting with the service agency director or his or her designee. The purpose of the meeting is to attempt to resolve the issue or issues that are the subject of the fair hearing appeal informally prior to the scheduled fair hearing.

(b) If an informal meeting is held, it shall be conducted by the service agency director or his or her designee. The service agency director or his or her designee shall notify the applicant or recipient and his or her authorized representative of the decision of the informal meeting in writing within five working days of the meeting.

(c) The written decision of the service agency director or his or her designee shall:

(1) Identify the issues presented by the appeal.

(2) Rule on each issue identified.

(3) State the facts supporting each ruling.

(4) Identify the laws, regulations, and policies upon which each ruling is based.

(d) Prior to the meeting, the claimant or his or her authorized representative shall have the right to examine any documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

SEC. 8. Section 4710.8 of the Welfare and Institutions Code is amended to read:

4710.8. (a) At an informal meeting, the claimant shall have the rights stated pursuant to Section 4701.

(b) An informal meeting shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

(c) An informal meeting shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, the parent of a minor claimant, or the authorized representative does not understand English, an interpreter shall be provided who is competent and acceptable to both the person requiring the interpreter and the service agency director or the director's designee. Any cost of an interpreter shall be borne by the service agency.

SEC. 9. Section 4711 of the Welfare and Institutions Code is amended to read:

4711. Upon receipt of the hearing request form, where a fair hearing has been requested but mediation has not, the responsible state agency director shall immediately notify the claimant, the claimant's legal guardian or conservator, the parent of a minor claimant, the claimant's authorized representative, and the service agency director in writing of all the following information applicable to fair hearings. Where the hearing request form contains a request for a fair hearing and mediation, the notifications shall be made separately, and each notice shall contain only the information applicable to the particular type of proceeding.

(a) The time, place, and date of the fair hearing or mediation, as applicable, if agreed to by the service agency.

(b) The rights of the parties at the fair hearing pursuant to Section 4701 or mediation, as applicable, pursuant to Section 4711.5.

(c) The availability of advocacy assistance pursuant to subdivision (g) of Section 4701 for both mediation and fair hearings.

(d) The name, address, and telephone number of the persons or offices designated by the director of the responsible state agency, as applicable, to conduct fair hearings, mediate disputes, and to receive requests for continuance or consolidation.

(e) The rights and responsibilities of the parties established pursuant to subdivisions (d) to (m), inclusive, of Section 4712.

SEC. 10. Section 4711.5 of the Welfare and Institutions Code is amended to read:

4711.5. (a) Upon receipt of the written request for mediation, the service agency shall be given five working days to accept or decline mediation.

(b) If the service agency declines mediation, the notice of that decision shall be sent immediately to the claimant, his or her authorized representative, and the director of the responsible state agency.

(c) (1) If the service agency accepts mediation, the service agency shall immediately send notice of that decision to the claimant, his or her authorized representative, and the director of the responsible state agency.

(2) Within five calendar days after the receipt of the notice of the service agency's decision regarding mediation, the responsible state agency or the designee of the responsible state agency shall notify the claimant, his or her authorized representative, and the service agency of the information applicable to voluntary mediation specified in Section 4711. The mediation shall be held within 30 days of the date the hearing request form is received by the service agency, unless a continuance is granted to the claimant at the discretion of the mediator.

(3) A continuance granted pursuant to paragraph (2) shall constitute a waiver of medicaid home and community-based services of the participant's right to a decision within 90 days of the date the hearing

request form is received by the service agency. The extension of time for the final decision resulting from the continuance shall only be as long as the time period of the continuance.

(d) Mediation shall be conducted in an informal, nonadversarial manner, and shall incorporate the rights of the claimant contained in paragraphs (1), (3), (4), and (5) of subdivision (f) of Section 4701.

(e) The State Department of Developmental Services shall contract with the mediators that meet the following requirements:

(1) Familiarity with the provisions of this division and implementing regulations, familiarity with the process of reconciling differences in a nonadversarial, informal manner.

(2) The person is not in the business of providing or supervising services provided to regional centers or to regional center consumers.

(f) During the course of the mediation, the mediator may meet separately with the participants to the mediation, and may speak with any party or parties confidentially in an attempt to assist the parties to reach a resolution that is acceptable to all parties.

(g) The mediator shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot be fair and impartial. Any party may request the disqualification of the mediator by filing an affidavit, prior to the voluntary mediation, stating with particularity the grounds upon which it is claimed that a fair and impartial mediation cannot be accorded. The issue shall be decided by the mediator.

(h) Either the service agency or the claimant or his or her authorized representative may withdraw at any time from the mediation and proceed to a fair hearing.

SEC. 11. Section 4712 of the Welfare and Institutions Code is amended to read:

4712. (a) The fair hearing shall be held within 50 days of the date the hearing request form is received by the service agency, unless a continuance based upon a showing of good cause has been granted to the claimant. The service agency may also request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause includes, but is not limited to, the following circumstances:

(1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant.

(2) Personal illness or injury of the claimant or authorized representative.

(3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative,

conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative.

(4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant.

(5) An intervening request by the claimant or his or her authorized representative for mediation.

(b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be adopted by the department pursuant to Section 4705. These hearing officers shall receive training in the law and regulations governing services to developmentally disabled individuals and administrative hearings. Training shall include, but not be limited to, the Lanterman Developmental Disabilities Services Act and regulations adopted thereunder, relevant case law, information about services and supports available to persons with developmental disabilities, including innovative services and supports, the standard agreement contract between the department and regional centers and regional center purchase-of-service policies, and information and training on protecting the rights of consumers at administrative hearings, with emphasis on assisting, where appropriate, those consumers represented by themselves or an advocate inexperienced in administrative hearings in fully developing the administrative record. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities, the Organization of Area Boards, the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, the Association of Regional Center Agencies, and other state agencies or organizations and consumers and family members as designated by the department in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis. The training shall be developed and presented by the department, however, the department shall invite those agencies and organizations listed in this subdivision to participate.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any

person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing.

(d) The claimant and the service agency shall exchange a list of potential witnesses, the general subject of the testimony of each witness, and copies of all potential documentary evidence at least five calendar days prior to the hearing. The hearing officer may prohibit testimony of a witness that is not disclosed and may prohibit the introduction of documents that have not been disclosed. However, the hearing officer may allow introduction of such testimony or witness in the interest of justice.

(e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall agree on the location of the fair hearing.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer.

(h) Both parties to the fair hearing shall have the rights specified in subdivision (f) of Section 4701.

(i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. Both parties shall be allowed to submit documents into evidence at the beginning of the hearing. No party shall be required to formally authenticate any document unless the hearing officer determines the necessity to do so in the interest of justice. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(j) A service agency shall present its witnesses and all other evidence before the claimant presents his or her case unless the parties agree otherwise or the hearing officer determines that there exists good cause for a witness to be heard out of order. This section does not alter the burden of proof.

(k) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency.

(*l*) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent

of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency.

(m) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

(n) The agency awarded the contract for independent hearing officers shall biennially conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the evaluation. Information and data for this evaluation shall be solicited from consumers who were claimants in an administrative hearing over the past two years, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in an administrative hearing over the past two years, and the organizations identified in subdivision (b). Regional centers shall forward copies of administrative decisions reviewed by the superior court to the department. The areas of evaluation shall include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases where consumers represent themselves or are represented by an advocate that does not have significant experience in administrative hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (b) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected shall be made available to the public upon request, provided that the names of individual hearing officers and consumers shall not be disclosed.

SEC. 12. Section 4712.2 of the Welfare and Institutions Code is amended to read:

4712.2. (a) Two or more claimants with a common complaint, or their authorized representatives, or a service agency may request the consolidation of appeals involving a common question of law or fact. The hearing officer may grant the request for consolidation if the hearing officer finds that consolidation would not result in prejudice or undue inconvenience to any party, undue delay, or a violation of any claimant's right to confidentiality unless the claimant agrees to have otherwise confidential information revealed to other claimants. Requests for consolidation shall be forwarded to the hearing officer, and postmarked within five working days of the receipt of the notice sent pursuant to Section 4711. The hearing officer shall notify the parties and authorized

representatives, if any, of a request for consolidation and shall afford an opportunity for any written objections to be submitted.

(b) In all consolidated hearings, each individual claimant shall have all the rights specified in subdivision (f) of Section 4701. A separate written decision shall be issued to each claimant and respective authorized representatives.

SEC. 13. Section 4712.5 of the Welfare and Institutions Code is amended to read:

4712.5. (a) Except as provided in subdivision (c), within 10 working days of the concluding day of the state hearing, but not later than 80 days following the date the hearing request form was received, the hearing officer shall render a written decision and shall transmit the decision to each party and to the director of the responsible state agency, along with notification that this is the final administrative decision, that each party shall be bound thereby, and that either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving notice of the final decision.

(b) The hearing officer's decision shall be in ordinary and concise language and shall contain a summary of the facts, a statement of the evidence from the proceedings that was relied upon, a decision on each of the issues presented, and an identification of the statutes, regulations, and policies supporting the decision.

(c) Where the decision involves an issue arising from the federal home- and community-based service waiver program, the hearing officer's decision shall be a proposed decision submitted to the Director of Health Services as the single state agency for the medicaid program. Within 90 days following the date the hearing request form is postmarked or received, whichever is earlier, the director may adopt the decision as written or decide the matter on the record. If the Director of Health Services does not act on the proposed decision within 90 days, the decision shall be deemed to be adopted by the Director of Health Services. The final decision shall be immediately transmitted to each party, along with the notice described in subdivision (a). If the decision of the Director of Health Services differs from the proposed decision of the hearing officer, a copy of that proposed decision shall also be served upon each party.

(d) The department shall collect and maintain, or cause to be collected and maintained, redacted copies of all administrative hearing decisions issued under this division. Hearing decisions shall be categorized by the type of service or support that was the subject of the hearing and by the year of issuance. The department shall make copies of the decisions available to the public upon request at a cost per page not greater than that which it charges for document requests submitted pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of

the Government Code. The department shall use this information in partial fulfillment of its obligation to monitor regional centers and in its evaluation of the contract for the provision of independent hearing officers.

CHAPTER 417

An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and

that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the

original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section

110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k).

(g) For purposes of this section:

(1) ''Person over the age of 55 years'' means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) ''Base year value of the original property'' means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, ''base year value of the original property'' also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the ''base year value of the original property'' shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) ''Replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(4) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building,

structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(5) ''Equal or lesser value'' means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the ''replacement dwelling is purchased or newly constructed'' is the date of purchase or the date of completion of construction, whichever is later.

(6) ''Full cash value of the replacement dwelling'' means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) ''Full cash value of the original property'' means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) ''Sale'' means any change in ownership of the original property for consideration.

(9) ''Claimant'' means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of

the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) ''Property that is eligible for the homeowner's exemption'' includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) ''Person'' means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) ''Severely and permanently disabled'' means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original

property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any

replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph shall not be construed as a waiver of any other requirement of this section.

(2) This subdivision shall not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(3) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 418

An act to add and repeal Section 1506 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 2000.]

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

SECTION 1. Section 1506 is added to the Fish and Game Code, to read:

1506. (a) The fisheries management program described in the Kings River Fisheries Management Program Framework Agreement, effective May 28, 1999, as approved by the department is adopted and authorized. The department may contribute, from the Fish and Game Preservation Fund, or otherwise upon appropriation by the Legislature, up to 50 percent of any capital costs incurred by local agencies for the recreation and fish and wildlife enhancement features of the program.

(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. 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 opportunity to enhance the Kings River fishery.

CHAPTER 419

An act to amend Section 98 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 2000. Filed with Secretary of State September 12, 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) (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 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) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(h) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(i) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(j) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(k) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 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 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. 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 both of the following:

(a) The unique sequence of city tax repeals and impositions, not accounted for by generally applicable provisions regarding reductions in TEA formula allocations, undertaken in recent years by qualified cities in the County of Santa Clara.

(b) The failure of generally applicable provisions to account for the unique sequence of changes in recent years to local tax rates in the County of Santa Clara would, if left unaddressed, result in unintended, disparate reductions in the amount of TEA formula allocations to qualified cities in that 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 1581. 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 1581, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because 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 420

An act to amend Section 14202.2 of the Penal Code, and to amend Sections 6603 and 6604 of, and to amend and repeal Section 6604.1 of, the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 14202.2 of the Penal Code is amended to read:

14202.2. (a) The Department of Justice, in conjunction with the Department of Corrections, shall update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect the most recent inmates paroled from facilities under the jurisdiction of the Department of Corrections.

(b) Commencing on July 1, 2001, The Department of Justice, in consultation with the State Department of Mental Health, shall also update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by the State Department of Mental Health, other than individuals committed as incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

SEC. 2. Section 6603 of the Welfare and Institutions Code is amended to read:

6603. (a) A person subject to this article shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts or professional persons to perform an examination on his or her behalf, and

have access to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall appoint counsel to assist him or her, and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf.

(b) The attorney petitioning for commitment under this article shall have the right to demand that the trial be before a jury.

(c) If the attorney petitioning for commitment under this article determines that updated evaluations are necessary in order to properly present the case for commitment, the attorney may request the State Department of Mental Health to perform updated evaluations. If one or more of the original evaluators is no longer available to testify in court proceedings, the attorney petitioning for commitment under this article may request the State Department of Mental Health to perform replacement evaluations. When a request is made for an updated or replacement evaluation, the State Department of Mental Health shall perform the requested evaluations and forward them to the petitioning attorney. However, updated or replacement evaluations shall not be performed except as necessary to update one or more of the original evaluations or to replace the evaluation of an evaluator that is no longer available for testimony. These updated or replacement evaluations shall include review of available medical and psychological records, including treatment records, consultation with current treating clinicians, and interviews of the person being evaluated, either voluntarily or by court order. If an updated or replacement evaluation results in a split opinion as to whether the subject meets the criteria for commitment, the State Department of Mental Health shall conduct two additional evaluations in accordance with subdivision (f) of Section 6601.

(d) If no demand is made by the person subject to this article or the petitioning attorney, the trial shall be before the court without jury.

(e) A unanimous verdict shall be required in any jury trial.

(f) The court shall notify the State Department of Mental Health of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

SEC. 3. Section 6604 of the Welfare and Institutions Code is amended to read:

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the

person is a sexually violent predator, the person shall be committed for two years to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health, and the person shall not be kept in actual custody longer than two years unless a subsequent extended commitment is obtained from the court incident to the filing of a petition for extended commitment under this article or unless the term of commitment changes pursuant to subdivision (e) of Section 6605. Time spent on conditional release shall not count toward the two-year term of commitment, unless the person is placed in a locked facility by the conditional release program, in which case the time in a locked facility shall count toward the two-year term of commitment. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections.

SEC. 4. Section 6604.1 of the Welfare and Institutions Code, as amended by Section 7 of Chapter 961 of the Statutes of 1998, is amended to read:

6604.1. (a) The two-year term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section. The initial two-year term shall not be reduced by any time spent in a secure facility prior to the order of commitment. For any subsequent extended commitments, the term of commitment shall be for two years commencing from the date of the termination of the previous commitment.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of Mental Health. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to extended commitment proceedings.

SEC. 5. Section 6604.1 of the Welfare and Institutions Code, as added by Section 8 of Chapter 961 of the Statutes of 1998, is repealed.

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 clarify recommitment and placement procedures to avoid the possible inappropriate release of sexually violent predators, it is necessary that this bill take effect immediately.

CHAPTER 421

An act to repeal Section 1522.06 of the Health and Safety Code, to amend Sections 11105 and 13300 of the Penal Code, and to amend Sections 309 and 361.4 of, and to add Section 16504.5 to, the Welfare and Institutions Code, relating to children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 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 mission of the juvenile dependency system in California is to provide children who have been subjected to abuse or neglect with protection from further harm.

(b) County child welfare agencies are charged with investigating allegations of abuse and neglect of children and identifying temporary caretakers for children who must be removed from their homes.

(c) In conducting child abuse investigations and assessing the risk of placing children in out-of-home care, child welfare agencies and the juvenile court must have timely access to the complete criminal background records of alleged perpetrators and prospective caretakers.

(d) The state has established a clear goal that children removed from their home be placed in the home of a relative, whenever possible, in order to provide the child with continuity and minimize any trauma that may be caused by the removal. Existing law allows children to be placed with relatives who are not licensed or certified foster parents. However, child welfare agencies are required to conduct an in-home visit and safety assessment prior to placing a child in the home of a relative.

(e) It is the intent of the Legislature in enacting this act to do all of the following:

(1) Ensure the protection of children by authorizing county child welfare agencies to have access to complete criminal background information through the California Law Enforcement Telecommunications System (CLETS) in order to provide the instant information these agencies require to carry out child abuse investigations, relative placement assessments, and searches for parents whose whereabouts are unknown.

(2) Ensure the highest possible level of information accuracy by requiring that any criminal background check conducted by county child welfare agencies through CLETS be followed by a fingerprint-based criminal background check within five judicial days.

SEC. 2. Section 1522.06 of the Health and Safety Code is repealed.

SEC. 3. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) ''State summary criminal history information'' means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) ''State summary criminal history information'' does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to 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.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and if authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4.

(12) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties,

Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, if access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the

state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a ''compelling need'' as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped ''no criminal record'' and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code

shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

SEC. 3.5. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) ''Local summary criminal history information'' means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) ''Local summary criminal history information'' does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) ''Local agency'' means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency,

officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(10) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(13) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(14) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, which operates a nuclear energy facility when access is needed to assist in employing persons to work at the facility, provided that, if the local agency supplies the information, it shall furnish a copy of this information to the person to whom the information relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when this information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility, as defined in Section 216 of the Public Utilities Code, when access is needed to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions

and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the information pursuant to this paragraph, it shall furnish a copy of the information to the person to whom the information relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a ''compelling need'' as required to be shown in this subdivision.

(10) Any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor Code, for the purposes of consenting to, or approving of, the prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

Any local government's request for local summary criminal history information for purposes of screening a prospective concessionaire and their affiliates or associates before approving or denying an application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest is deemed a ''compelling need'' as required by this subdivision. However, only local summary criminal history information pertaining to criminal convictions may be obtained pursuant to this paragraph.

Any information obtained from the local summary criminal history is confidential and the receiving local government shall not disclose its contents, other than for the purpose for which it was acquired. The local

summary criminal history information in the possession of the local government and all copies made from it shall be destroyed not more than 30 days after the local government's final decision to grant or deny consent to, or approval of, the prospective concessionaire's application for, or acquisition of, a beneficial interest in a concession, lease, or other property interest. Nothing in this section shall be construed as imposing any duty upon a local government, or any officer or official thereof, to request local summary criminal history information on any current or prospective concessionaire or their affiliates or associates.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped ''no criminal record'' and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee not to exceed ten dollars ($10) to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(j) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(k) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(*l*) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred entry of judgment program to a government agency employer of that peace officer or applicant.

(m) Notwithstanding subdivision (k) or (*l*), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without attempting to determine whether diversion or a deferred entry of judgment program has been successfully completed.

(2) Information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

(3) Information concerning an arrest without a disposition without attempting to determine whether diversion has been successfully completed or the individual was exonerated.

SEC. 4. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The child has no parent, guardian, or responsible relative; or the child's parent, guardian, or responsible relative is not willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative.

(3) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(4) The child has left a placement in which he or she was placed by the juvenile court.

(b) In any case in which there is reasonable cause for believing that a child who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in Section 300, the child shall be deemed to have been taken into temporary custody and delivered to the social worker for the purposes of this chapter while the child is at the office of the physician or surgeon or the medical facility.

(c) If the child is not released to his or her parent or guardian, the child shall be deemed detained for purposes of this chapter.

(d) If an able and willing relative, as defined in Section 319, is available and requests temporary placement of the child pending the detention hearing, the social worker shall initiate an emergency assessment of the relative's suitability, which shall include an in-home visit to assess the safety of the home and the ability of the relative to care for the child on a temporary basis, and a consideration of the results of a criminal records check conducted by an appropriate governmental agency through the California Law Enforcement Telecommunications System pursuant to Section 16504.5 and allegations of prior child abuse or neglect concerning the relative and other adults in the home. The results of the assessment shall be provided to the court in the social worker's report as required by Section 319. Within five judicial days following the criminal records check conducted through the California Law Enforcement Telecommunications System, the social worker shall ensure that a fingerprint clearance check of the relative and any other person whose criminal record was obtained pursuant to subdivision (b) of Section 361.4 is initiated and shall review the results of any criminal records check to assess the safety of the home.

SEC. 5. Section 361.4 of the Welfare and Institutions Code is amended to read:

361.4. (a) Prior to placing a child in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall visit the home to ascertain the appropriateness of the placement.

(b) Whenever a child may be placed in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or county social worker placing the

child shall cause a criminal records check to be conducted by an appropriate governmental agency through the California Law Enforcement Telecommunications System pursuant to Section 16504.5. The criminal records check shall be conducted with regard to all persons over the age of 18 years living in the home, and on any other person over the age of 18 years, other than professionals providing professional services to the child, known to the placing entity who may have significant contact with the child, including any person who has a familial or intimate relationship with any person living in the home. A criminal records check may be conducted pursuant to this section on any person over the age of 14 years living in the home who the county social worker believes may have a criminal record. Within five judicial days following the criminal records check conducted through the California Law Enforcement Telecommunications System, the social worker shall ensure that a fingerprint clearance check of the relative and any other person whose criminal record was obtained pursuant to this subdivision is initiated to ensure the accuracy of the criminal records check conducted through the California Law Enforcement Telecommunications System and shall review the results of any criminal records check to assess the safety of the home.

(c) Whenever a child may be placed in the home of a relative, or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall cause a check of the Child Abuse Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Index check shall be conducted on all persons over the age of 18 years living in the home.

(d) (1) If the fingerprint clearance check indicates that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other child who is not a licensed or certified foster parent for placement of a child.

(2) If the fingerprint clearance check indicates that the person has been convicted of a crime that would preclude licensure under Section 1522 of the Health and Safety Code, the child shall not be placed in the home.

(3) Upon request from a county, the Director of Social Services may waive the application of this section pursuant to standards established in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code. The director shall grant or deny the waiver within 14 days of receipt of the county's request.

(e) Nothing in this section shall preclude a county from conducting a criminal background check that the county is otherwise authorized to conduct using fingerprints.

SEC. 6. Section 16504.5 is added to the Welfare and Institutions Code, to read:

16504.5. (a) Notwithstanding any other provision of law, pursuant to subdivision (b) of Section 11105 of the Penal Code, a child welfare agency may secure from an appropriate governmental agency the state summary criminal history information, as defined in subdivision (a) of Section 11105 of the Penal Code, through the California Law Enforcement Telecommunications System for the following purposes:

(1) To conduct an investigation pursuant to Section 11166.3 of the Penal Code or an investigation involving a child in which the child is alleged to come within the jurisdiction of the juvenile court under Section 300.

(2) To assess the appropriateness and safety of placing a child who has been detained or is a dependent of the court, in the home of a relative pursuant to Section 309 or 361.4.

(3) To attempt to locate a parent or guardian pursuant to Section 311 of a child who is the subject of dependency court proceedings.

(b) Any time that a child welfare agency initiates a criminal background check through the California Law Enforcement Telecommunications System, the agency shall ensure that a fingerprint check is initiated within five judicial days of the check, unless the whereabouts of the subject of the check are unknown or the subject of the check refuses to submit to the fingerprint check. The Department of Justice shall provide the requesting agency a copy of all criminal history information regarding an individual that it maintains pursuant to subdivision (b) of Section 11105 of the Penal Code.

(c) Law enforcement personnel shall cooperate with requests for criminal history information authorized pursuant to this section and shall provide the information to the requesting entity in a timely manner.

(d) Any law enforcement officer or person authorized by this section to receive the information who obtains the information in the record and knowingly provides the information to a person not authorized by law to receive the information is guilty of a misdemeanor as specified in Section 11142 of the Penal Code.

(e) Information obtained pursuant to this section shall not be used for any purposes other than those described in subdivision (a).

(f) Nothing in this section shall preclude a relative or other person living in a relative's home from refuting any of the information obtained by law enforcement if the individual believes the criminal records check revealed erroneous information.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by

that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that local child welfare agencies may secure, as soon as possible, appropriate criminal record checks for purposes of providing safe and timely placement alternatives for minors who are the subject of alleged abuse or neglect, it is necessary that this act take effect immediately.

CHAPTER 422

An act to add Section 5071.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 5071.1 is added to the Vehicle Code, to read:

5071.1. (a) The department, in consultation with the Girl Scout Councils of California, shall design and make available for issuance special license plates, in accordance with Section 5060, bearing a design depicting the logo of the Girl Scouts of the United States of America. Any person described in Section 5101, upon payment of the additional fee set forth in subdivision (b), may apply for and be issued a set of special interest license plates described in this subdivision.

(b) In addition to the regular fees for an original registration, a renewal of registration, or a transfer or substitution of the license plates, the following additional fees shall be paid for the issuance, renewal, retention, transfer, or substitution of the special interest license plates authorized by this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates, or retention of the plates if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(c) After deducting administrative costs incurred by the department to implement this section, the department shall deposit the additional revenue derived from the issuance, renewal, retention, transfer, and

substitution of the special interest license plates in the Girl Scouts License Plate Fund, which is hereby created in the General Fund.

(d) Upon appropriation by the Legislature, the money in the fund shall be allocated by the Controller to the Girl Scout Councils of California for the purpose of funding the promotion of Girl Scout membership including outreach efforts in underserved areas, camping, field trips, wider opportunities, mentoring programs, volunteer training, and other Girl Scout opportunities, and for the promotion of the Girl Scout License Plate Program.

(e) Any organization participating in the special interest license plate program pursuant to this section shall comply with all of the requirements imposed on participating organizations pursuant to Section 5060.

CHAPTER 423

An act to amend Section 798.26 of, and to add Section 798.37.5 to, the Civil Code, relating to mobilehome parks.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 798.26 of the Civil Code is amended to read:

798.26. (a) Except as provided in subdivision (b), and notwithstanding any other provision of law to the contrary, the ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall have no right of entry to a mobilehome without the prior written consent of the resident. The consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, trees, and driveways, for maintenance of the premises in accordance with the rules and regulations of the park when the homeowner or resident fails to so maintain the premises, and protection of the mobilehome park, subdivision, cooperative, or condominium at any reasonable time, but not in a manner or at a time which would interfere with the resident's quiet enjoyment.

(b) The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes may enter a mobilehome without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome.

SEC. 2. Section 798.37.5 is added to the Civil Code, to read:

798.37.5. (a) With respect to trees on rental spaces in a mobilehome park, park management shall be solely responsible for the trimming, pruning, or removal of any tree, and the costs thereof, upon written notice by a homeowner or a determination by park management that the tree poses a specific hazard or health and safety violation. In the case of a dispute over that assertion, the park management or a homeowner may request an inspection by the Department of Housing and Community Development or a local agency responsible for the enforcement of the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 3 of the Health and Safety Code) in order to determine whether a violation of that act exists.

(b) With respect to trees in the common areas of a mobilehome park, park management shall be solely responsible for the trimming, pruning, or removal of any tree, and the costs thereof.

(c) Park management shall be solely responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of all driveways installed by park management including, but not limited to, repair of root damage to driveways and foundation systems and removal. Homeowners shall be responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of a homeowner installed driveway. A homeowner may be charged for the cost of any damage to the driveway caused by an act of the homeowner or a breach of the homeowner's responsibilities under the rules and regulations so long as those rules and regulations are not inconsistent with the provisions of this section.

(d) No homeowner may plant a tree within the mobilehome park without first obtaining written permission from the management.

(e) This section shall not apply to alter the terms of any rental agreement in effect prior to January 1, 2001, between the park management and the homeowner regarding the responsibility for the maintenance of trees and driveways within the mobilehome park, except that upon any renewal or extension, the rental agreement shall be subject to this section. This section is not intended to abrogate the content of any existing rental agreement or other written agreements regarding trees or driveways that are in effect prior to January 1, 2001.

(f) This section shall only apply to rental agreements entered into, renewed, or extended on or after January 1, 2001.

(g) Any mobilehome park rule or regulation shall be in compliance with this section.

CHAPTER 424

An act to amend Section 25503.8 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 25503.8 of the Business and Professions Code is amended to read:

25503.8. (a) Notwithstanding any other provision of this chapter, the holder of a distilled spirits manufacturer's license, a distilled spirits manufacturer's agent's license, a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of any of the following:

(A) A fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(B) A motion picture studio facility at which public tours are conducted for at least four million people per year.

(C) A retail, entertainment development adjacent to, and under common ownership with, a theme park, amphitheater, and motion picture production studio.

(D) A theme or amusement park and the adjacent retail, dining, and entertainment area located in the City of Los Angeles, Los Angeles County, or Orange County.

(2) The advertising space or time is purchased only in connection with one of the following:

(A) In the case of a fully enclosed auditorium or theater, in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(B) In the case of a motion picture studio facility, in connection with sponsorship of the public tours or special events conducted at the studio facility.

(C) In the case of a retail, entertainment development, in connection with sponsorship of public tours or special events conducted at the development.

(D) In the case of a theme or amusement park and the adjacent retail, dining, and entertainment area, located in the City of Los Angeles, Los Angeles County, or Orange County, in connection with daily activities

and events at the theme or amusement park and the adjacent retail, dining, and entertainment area.

(3) The on-sale licensee serves other brands of distilled spirits, beer or wine in addition to the brand manufactured or marketed by the distilled spirits manufacturer, distilled spirits manufacturer's agent, beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the distilled spirits manufacturer's license, distilled spirits manufacturer's agent's license, beer manufacturer's or winegrower's license and the on-sale licensee, which contract shall not in any way involve the holder of a distilled spirits, beer, or wine wholesaler's license.

(c) Any holder of a distilled spirits manufacturer's license, a distilled spirits manufacturer's agent's license, beer manufacturer's license or winegrower's license who, through coercion or other means, induces a holder of a distilled spirits, beer, or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces a holder of a distilled spirits, beer, or wine wholesaler's license to solicit a holder of a beer manufacturer's or winegrower's license to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

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.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit holders of distilled spirits manufacturers' and manufacturers' agents' licenses to purchase advertising space and time under the same conditions as holders of beer manufacturers' or winegrowers' licenses as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 425

An act to add Chapter 4 (commencing with Section 10610) to Part 2 of Division 5 of the Food and Agricultural Code, relating to cattle disease control.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Chapter 4 (commencing with Section 10610) is added to Part 2 of Division 5 of the Food and Agricultural Code, to read:

CHAPTER 4. CATTLE DISEASE CONTROL

10610. (a) The Secretary of the Department of Food and Agriculture may adopt regulations to control or eradicate cattle diseases, including bovine trichomoniasis, in any of the following ways:

(1) Requiring permits before entry of, and limitations on the importation of, cattle and other animals or materials that might act as a cause or a vector of a disease or condition that is infectious or contagious to cattle.

(2) Limitations on the intrastate or interstate movement of cattle, in compliance with any applicable federal law.

(3) Diagnostic tests, vaccinations, treatments, or other appropriate methods, including, but not limited to, the mandated reporting by designated parties.

(4) Notification of owners of cattle that have been exposed, or may have been exposed, to infectious animals or materials.

(5) Similar means that the secretary finds and determines are necessary.

(b) (1) The secretary shall appoint an advisory task force, including, but not limited to, livestock industry representatives and university researchers, for the purposes of advising the secretary on the control and management of cattle health diseases and evaluating the effectiveness of programs established pursuant to this chapter. The secretary shall consult with the advisory task force prior to the adoption of regulations or the imposition of fees by the secretary.

(2) Members of the advisory task force, or alternate members when acting as members, may be reimbursed, upon request, for necessary expenses incurred by them in the performance of their duties.

(c) (1) Any person that willfully and knowingly violates any regulation adopted pursuant to this chapter is guilty of a misdemeanor.

(2) In lieu of seeking prosecution of any violation of this chapter as a misdemeanor, the secretary may prosecute civilly, or levy civil penalties, pursuant to Sections 9166 and 9167.

(d) The secretary may impose fees to offset the costs of any program established pursuant to this section, provided that the total fees collected do not exceed the actual costs of regulation or impair the department's animal disease surveillance, public health, and food safety responsibilities.

(e) The secretary is authorized to establish accounts within the Food and Agriculture Fund as necessary to efficiently administer the department's responsibilities pursuant to this chapter.

(f) Nothing in this chapter shall be construed to limit or restrict the authority granted to the State Veterinarian in Section 9562.

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 426

An act to amend, add, and repeal Section 1374.16 of the Health and Safety Code, relating to health care.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 1374.16 of the Health and Safety Code is amended to read:

1374.16. (a) Every health care service plan, except a specialized health care service plan, shall establish and implement a procedure by which an enrollee may receive a standing referral to a specialist. The procedure shall provide for a standing referral to a specialist if the primary care physician determines in consultation with the specialist, if any, and the plan medical director or his or her designee, that an enrollee needs continuing care from a specialist. The referral shall be made pursuant to a treatment plan approved by the health care service plan in consultation with the primary care physician, the specialist, and the enrollee, if a treatment plan is deemed necessary to describe the course of the care. A treatment plan may be deemed to be not necessary provided that a current standing referral to a specialist is approved by the plan or its contracting provider, medical group, or independent practice association. The treatment plan may limit the number of visits to the specialist, limit the period of time that the visits are authorized, or require that the specialist provide the primary care physician with regular reports on the health care provided to the enrollee.

(b) Every health care service plan, except a specialized health care service plan, shall establish and implement a procedure by which an enrollee with a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling may receive a referral to a specialist or specialty care center that has expertise in treating the condition or disease for the purpose of having the specialist coordinate the enrollee's health care. The referral shall be made if the primary care physician, in consultation with the specialist or specialty care center if any, and the plan medical director or his or her designee determines that this specialized medical care is medically necessary for the enrollee. The referral shall be made pursuant to a treatment plan approved by the health care service plan in consultation with the primary care physician, specialist or specialty care center, and enrollee, if a treatment plan is deemed necessary to describe the course of care. A treatment plan may be deemed to be not necessary provided that the appropriate referral to a specialist or specialty care center is approved by the plan or its contracting provider, medical group, or independent practice association. After the referral is made, the specialist shall be authorized to provide health care services that are within the specialist's area of expertise and training to the enrollee in the same manner as the enrollee's primary care physician, subject to the terms of the treatment plan.

(c) The determinations described in subdivisions (a) and (b) shall be made within three business days of the date the request for the determination is made by the enrollee or the enrollee's primary care physician and all appropriate medical records and other items of information necessary to make the determination are provided. Once a determination is made, the referral shall be made within four business days of the date the proposed treatment plan, if any, is submitted to the plan medical director or his or her designee.

(d) Subdivisions (a) and (b) do not require a health care service plan to refer to a specialist who, or to a specialty care center that, is not employed by or under contract with the health care service plan to provide health care services to its enrollees, unless there is no specialist within the plan network that is appropriate to provide treatment to the enrollee, as determined by the primary care physician in consultation with the plan medical director as documented in the treatment plan developed pursuant to subdivision (a) or (b).

(e) For the purposes of this section, ''specialty care center'' means a center that is accredited or designated by an agency of the state or federal government or by a voluntary national health organization as having special expertise in treating the life-threatening disease or condition or degenerative and disabling disease or condition for which it is accredited or designated.

(f) As used in this section, a ''standing referral'' means a referral by a primary care physician to a specialist for more than one visit to the specialist, as indicated in the treatment plan, if any, without the primary care physician having to provide a specific referral for each visit.

(g) As used in this section, with regard to an enrollee with human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), ''a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling'' shall be interpreted broadly so as to maximize the enrollee's access to provider with demonstrated expertise in treating a condition or disease involving a complicated treatment regimen that requires ongoing monitoring of the patient's adherence to the regimen.

(h) This section shall become inoperative on (1) January 1, 2004, or (2) the date of adoption of an accreditation or designation by an agency of the state or federal government or by a voluntary national health organization of an HIV or AIDS specialist, whichever date is earlier, and, as of January 1, 2004, or of the January 1 following the inoperative date whichever date is earlier, is repealed, unless a later enacted statute that is enacted before those dates deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1374.16 is added to the Health and Safety Code, to read:

1374.16. (a) Every health care service plan, except a specialized health care service plan, shall establish and implement a procedure by which an enrollee may receive a standing referral to a specialist. The procedure shall provide for a standing referral to a specialist if the primary care physician determines in consultation with the specialist, if any, and the plan medical director or his or her designee, that an enrollee needs continuing care from a specialist. The referral shall be made pursuant to a treatment plan approved by the health care service plan in consultation with the primary care physician, the specialist, and the enrollee, if a treatment plan is deemed necessary to describe the course of the care. A treatment plan may be deemed to be not necessary provided that a current standing referral to a specialist is approved by the plan or its contracting provider, medical group, or independent practice association. The treatment plan may limit the number of visits to the specialist, limit the period of time that the visits are authorized, or require that the specialist provide the primary care physician with regular reports on the health care provided to the enrollee.

(b) Every health care service plan, except a specialized health care service plan, shall establish and implement a procedure by which an enrollee with a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling may receive a referral to a specialist or specialty care center that has expertise in treating the condition or disease for the purpose of having the specialist coordinate the enrollee's health care. The referral shall be made if the primary care physician, in consultation with the specialist or specialty care center if any, and the plan medical director or his or her designee determines that this specialized medical care is medically necessary for the enrollee. The referral shall be made pursuant to a treatment plan approved by the health care service plan in consultation with the primary care physician, specialist or specialty care center, and enrollee, if a treatment plan is deemed necessary to describe the course of care. A treatment plan may be deemed to be not necessary provided that the appropriate referral to a specialist or specialty care center is approved by the plan or its contracting provider, medical group, or independent practice association. After the referral is made, the specialist shall be authorized to provide health care services that are within the specialist's area of expertise and training to the enrollee in the same manner as the enrollee's primary care physician, subject to the terms of the treatment plan.

(c) The determinations described in subdivisions (a) and (b) shall be made within three business days of the date the request for the determination is made by the enrollee or the enrollee's primary care

physician and all appropriate medical records and other items of information necessary to make the determination are provided. Once a determination is made, the referral shall be made within four business days of the date the proposed treatment plan, if any, is submitted to the plan medical director or his or her designee.

(d) Subdivisions (a) and (b) do not require a health care service plan to refer to a specialist who, or to a specialty care center that, is not employed by or under contract with the health care service plan to provide health care services to its enrollees, unless there is no specialist within the plan network that is appropriate to provide treatment to the enrollee, as determined by the primary care physician in consultation with the plan medical director as documented in the treatment plan developed pursuant to subdivision (a) or (b).

(e) For the purposes of this section, ''specialty care center'' means a center that is accredited or designated by an agency of the state or federal government or by a voluntary national health organization as having special expertise in treating the life-threatening disease or condition or degenerative and disabling disease or condition for which it is accredited or designated.

(f) As used in this section, a ''standing referral'' means a referral by a primary care physician to a specialist for more than one visit to the specialist, as indicated in the treatment plan, if any, without the primary care physician having to provide a specific referral for each visit.

(g) This section shall become operative on (1) January 1, 2004, or (2) the date of adoption of an accreditation or designation by an agency of the state or federal government or by a voluntary national health organization of an HIV or AIDS specialist, whichever date is earlier.

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 427

An act to add Section 2620.5 to the Business and Professions Code, relating to physical therapists.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 2620.5 is added to the Business and Professions Code, to read:

2620.5. A physical therapist may, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided the physical therapist is certified by the board to perform the tissue penetration and evaluation and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained. Any physical therapist who develops or makes a diagnostic or prognostic interpretation of this data is in violation of the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2), and may be subject to all of the sanctions and penalties set forth in that act.

The board, after meeting and conferring with the Division of Licensing of the Medical Board of California, shall do all of the following:

(a) Adopt standards and procedures for tissue penetration for the purpose of evaluating neuromuscular performance by certified physical therapists.

(b) Establish standards for physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

(c) Certify physical therapists meeting standards established by the board pursuant to this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 428

An act to add and repeal Division 22.7 (commencing with Section 32550) of the Public Resources Code, relating to the Baldwin Hills Conservancy.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Division 22.7 (commencing with Section 32550) is added to the Public Resources Code, to read:

DIVISION 22.7. BALDWIN HILLS CONSERVANCY ACT

CHAPTER 1. GENERAL PROVISIONS

32550. This division shall be known, and may be cited, as the Baldwin Hills Conservancy Act.

32551. The Legislature hereby finds and declares all of the following:

(a) The Baldwin Hills area within the County of Los Angeles and the cities of Los Angeles and Culver City constitutes an area with unique and important cultural, scientific, educational, recreational, and scenic resources, and includes land with the highest elevation in the Los Angeles Basin.

(b) The state recognized the importance of, and the need for, recreational venues in this area by purchasing and establishing the Kenneth Hahn State Recreation Area in 1983, which is under the jurisdiction of the Department of Parks and Recreation. The County of Los Angeles operates the state recreation area pursuant to a contract with the Department of Parks and Recreation.

(c) In recognition of the evolving community needs in the Baldwin Hills area, in 1999 the Legislature directed the review and revision of the master plan for the existing state recreation area as well as the acquisition of other lands in the Baldwin Hills.

(d) As one of the last remaining urban open spaces in Los Angeles County, the Baldwin Hills area should be held in trust to be preserved and enhanced for the enjoyment of, and appreciation by, present and future generations.

(e) The Baldwin Hills Conservancy should be created to develop and coordinate an integrated program of resources stewardship so that the Baldwin Hills area is managed for its optimum recreational and natural resource values based upon the needs and desires of the surrounding community.

CHAPTER 2. DEFINITIONS

32553. As used in this division, the following terms have the following meaning:

(a) ''Baldwin Hills area'' means the land area currently within the Kenneth Hahn State Recreation Area, the Baldwin Hills community, the

surrounding property bordered on the south by Slausen Avenue, and on the east by La Brea Avenue, and including a spur of land extending from Stocker Avenue to an area between La Brea Avenue and Crenshaw Boulevard, and including Ballona Creek and adjacent property within one-quarter mile of Ballona Creek on either side, from the Santa Monica Freeway (Interstate 10) to the Marina Freeway (Interstate 90).

(b) ''Board'' means the governing board of the Baldwin Hills Conservancy.

(c) ''Conservancy'' means the Baldwin Hills Conservancy.

(d) ''Fund'' means the Baldwin Hills Conservancy Fund created pursuant to subdivision (b) of Section 32574.

(e) ''Nonprofit organization'' means an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(f) ''Territory'' means the land in the Baldwin Hills area that is under the jurisdiction of the conservancy.

CHAPTER 3. CONSERVANCY

32555. There is in the Resources Agency, the Baldwin Hills Conservancy, which is created for the following purposes:

(a) To acquire and manage public lands within the Baldwin Hills area, and to provide recreational, open-space, wildlife habitat restoration and protection, and lands for educational uses within the area.

(b) To acquire open-space lands within the territory of the conservancy.

(c) To provide for the public's enjoyment, and to enhance the recreational and educational experience on public lands in the territory in a manner consistent with the protection of lands and resources in the area.

32556. (a) The board shall consist of nine voting members and six nonvoting members.

(b) The nine voting members of the board shall consist of the following:

(1) The Secretary of the Resources Agency, or his or her designee.

(2) The Director of Parks and Recreation, or his or her designee.

(3) The Director of Finance, or his or her designee.

(4) The Director of the Los Angeles County Department of Parks, or his or her designee.

(5) Three members of the public appointed by the Governor who are residents of Los Angeles County selected from a list of prominent members of the community who shall represent the diversity of the surrounding community.

(6) A resident of Los Angeles County appointed by the Speaker of the Assembly, and a resident of Los Angeles County appointed by the Senate Committee on Rules.

(c) The six nonvoting members shall consist of the following:

(1) The Secretary of the California Environmental Protection Agency, or his or her designee.

(2) The Executive Officer of the State Coastal Conservancy, or his or her designee.

(3) The Executive Officer of the State Lands Commission, or his or her designee.

(4) An appointee of the Governor with experience in developing contaminated sites, commonly referred to as ''brownfields.''

(5) The Executive Director of the Santa Monica Mountains Conservancy, or his or her designee.

(6) The Director of the Culver City Department of Parks and Recreation.

(d) A quorum shall consist of five voting members of the board, and any action of the board affecting any matter before the board shall be decided by a majority vote of the voting members present, a quorum being present. However, the affirmative vote of at least four of the voting members of the board shall be required for the transaction of any business of the board.

32557. (a) The voting members of the board shall serve for two-year terms. Any vacancy on the board shall be filled within 60 days from its occurrence by the appointing authority.

(b) No person shall continue as a member of the board if that person ceases to hold the office that qualifies that person for board membership. Upon the occurrence of that event, that person's membership on the board shall automatically terminate.

32558. The chairperson and vice-chairperson of the board shall be selected by a majority of the voting members of the board for one-year terms.

32559. The conservancy may employ an executive officer and other staff to perform those functions that cannot be provided by volunteers.

32560. All meetings of the board shall be subject to the 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).

32561. All members shall receive reimbursement for actual, necessary, and reasonable expenses. Any member of the board who is not a full-time public employee shall be compensated at a rate not to exceed one hundred dollars ($100) per regular meeting, not to exceed 12 regular meetings a year. Any member of the board may waive compensation.

32562. The conservancy shall obtain and maintain adequate liability insurance or its equivalent for acts or omissions of the conservancy's agents, employees, volunteers, and servants.

CHAPTER 4. POWERS AND DUTIES

32565. The jurisdiction of the conservancy includes those lands or other areas that are donated to, or otherwise acquired by, or are operated by the conservancy, that are located in the Baldwin Hills area.

32565.5. The conservancy shall do all of the following:

(a) Develop and coordinate an integrated program of resource stewardship so that the entire Baldwin Hills area is managed for optimum recreational and natural resource values based upon the needs and desires of the surrounding community.

(b) Establish policies and priorities within the Baldwin Hills area, and conduct any necessary planning activities in accordance with the purposes set forth in Section 32555.

(c) Give priority to related projects that create expanded opportunities that provide recreation, aesthetic improvement, and wildlife habitat in the Baldwin Hills area.

(d) Approve conservancy funded projects that advance the policies and proprieties set forth in this division.

(e) Enter into a memorandum of understanding with the Department of Parks and Recreation that would require the conservancy and the department to cooperate in the sharing of technical assistance, data, and information.

(f) Upon submission to the Legislature of the master plan required to be prepared pursuant to subdivisions (b) and (c) of Section 1 of Chapter 752 of the Statutes of 1999 by the Secretary of the Resources Agency and the Director of Parks and Recreation, the conservancy shall, by May 1, 2002, approve the master plan, and prioritize and implement both of the following in accordance with the master plan and with the master plan recommendations:

(1) The acquisition of additional recreational and open space and a plan for the management of lands under the jurisdiction of the conservancy, including additional or upgraded facilities and parks that may be necessary or desirable.

(2) The planned conveyance of lands acquired and restored, or lands acquired, restored, and developed, to the Department of Parks and Recreation or to any other public agency once the acquisition and improvements have been finalized. Any such transfer shall be subject to the approval of the Secretary of the Resources Agency. The secretary may require all lands and facilities subject to transfer to be repaired,

replaced, or rehabilitated to a fully operable condition, prior to the transfer occurring.

(g) Review and approve any operating agreement or amendments to an existing operating agreement between the Department of Parks and Recreation and any local operating agency, including the County of Los Angeles, for the Kenneth Hahn State Recreation Area. Any proposed operating agreement or an amendment to an agreement shall be submitted to the conservancy at least 90 days prior to the proposed effective date of the agreement and shall not become effective unless the conservancy certifies, in writing, its approval of the proposed agreement.

32566. The conservancy may direct the management, operation, administration, and maintenance of the lands and facilities it acquires in accordance with the purposes set forth in Section 32555. The conservancy may adopt regulations governing the use by the public of conservancy lands and facilities and may provide for the enforcement of those regulations.

32567. The conservancy shall determine acquisition priorities and may acquire real property or any interest in real property within the Baldwin Hills area from willing sellers and at fair market value or on other mutually acceptable terms, upon a finding that the acquisition is consistent with the purposes of the conservancy. The conservancy may acquire the property itself, or may coordinate the acquisition with other public agencies with appropriate responsibility and available funding or land to exchange. The overall objectives of the land acquisition program shall be to assist in accomplishing land transactions that are mutually beneficial to the landowners and the conservancy, and that meet the conservancy's purposes. Neither the conservancy nor the State Board of Public Works shall exercise the power of eminent domain for the purposes of this division. The conservancy shall have the first right of refusal to acquire public lands suitable for park and open space within the conservancy's territory, and may accept private or public lands offered for recreational trails or private lands offered in satisfaction of delinquent taxes owed on land located within the territory of the conservancy.

32568. The conservancy may undertake site improvement projects; regulate public access; revegetate and otherwise rehabilitate degraded areas, in consultation with other public agencies with appropriate jurisdiction and expertise; upgrade deteriorating facilities; and construct new facilities as needed for outdoor recreation, nature appreciation and interpretation, and natural resource protection. These projects shall be directed by the conservancy and undertaken by other public agencies, with the conservancy providing overall coordination through setting priorities for projects and assuring uniformity of approach.

32569. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this division.

(b) Grants to nonprofit organizations for the acquisition of real property or interests in real property shall be subject to all of the following conditions:

(1) The conservancy may acquire property at fair market value and consistent with the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), except that the acquisition price of lands acquired from public agencies shall be based on the public agencies' cost to acquire the land.

(2) The conservancy shall approve the terms under which the interest in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interests of the conservancy.

(5) The conservancy shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the conservancy, except that, prior to that termination, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property, by recording its acceptance of title, together with the conservancy's approval, in writing.

(c) Any deed or other instrument of conveyance whereby real property is acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the conservancy.

32570. (a) Notwithstanding any other provision of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest therein or option acquired under this division to a local public agency, state agency, federal agency, nonprofit organization, individual, or other entity for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

(b) The conservancy may initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, or other entities and may enter into any other agreements authorized by state or federal law.

(c) The conservancy shall approve changes to the current agreement for the operation of the Kenneth Hahn State Recreation Area that may be proposed for adoption by the Department of Parks and Recreation.

32571. Local public agencies may enter into an agreement to transfer responsibility for the management of the land located within the Baldwin Hills area to the conservancy. Local public agencies shall retain exclusive authority over all zoning or land use regulations within their jurisdiction.

32572. The conservancy shall restrict access on acquired lands that are unsuitable for parks and open-space use by entering into temporary agreements with other state or local public agencies for the protection of public health and safety, resource management and protection, and security.

32573. The conservancy shall do all of the following:

(a) Establish policies and priorities regarding the territory within the Baldwin Hills area, and conduct any necessary planning activities in accordance with the purposes set forth in Section 32555.

(b) Give priority to related projects that create expanded opportunities that provide recreation, aesthetic improvement, and wildlife habitat in the Baldwin Hills area.

(c) Approve conservancy-funded projects that advance the policies and priorities set forth in this division.

(d) Review the master plan required pursuant to subdivisions (b) and (c) of Section 1 of Chapter 752 of the Statutes of 1999 and implement prioritization for the acquisition and operation of additional recreational and open-space needs, including additional or upgraded facilities and parks that may be necessary or desirable.

32574. (a) The conservancy may fix and collect fees for the use of any land owned or controlled, or for any service provided, by the conservancy. No fee shall exceed the cost of maintaining and operating the land or of providing the service for which the fee is charged.

(b) The fee revenue and all other revenue received pursuant to this division shall be deposited in the Baldwin Hills Conservancy Fund, which is hereby created in the State Treasury. The money in the fund shall be expended by the conservancy, upon appropriation by the Legislature, for the purposes of this division.

(c) Nothing in this act changes the Kenneth Hahn State Recreation Area's status to receive funds as part of the state parks system.

32574.5. The conservancy shall coordinate its actions with state and local public safety agencies.

32575. The conservancy shall administer any funds appropriated to it and any revenue generated by public agencies for the Baldwin Hills area and contributed to the conservancy, and may expend those funds for capital improvements, land acquisition, or support of the conservancy's operations. Subject to Section 11005 of the Government Code, the conservancy may also accept any revenue, money, grants, goods, or services contributed to the conservancy by any public agency, private entity, or person, and, upon receipt, may expend any such revenue, money, or grants for capital improvements, land acquisitions, or support of the conservancy's operations.

32576. The conservancy may recruit and coordinate volunteers and experts to assist with conservancy projects and the maintenance of conservancy lands.

32577. The conservancy shall coordinate its actions with state and local public safety agencies.

32578. The conservancy shall have, and may exercise, all rights and powers, expressed or implied, necessary to carry out the purposes of this division, except as otherwise provided.

32579. The conservancy may sue and be sued.

32580. This division shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Not later than December 31, 2006, the Legislative Analyst shall review the effectiveness and progress of the Baldwin Hills Conservancy established pursuant to Division 22.7 (commencing with Section 32550) of the Public Resources Code in acquiring and developing open-space land and recreational opportunities in the Baldwin Hills area, as defined in subdivision (a) of Section 32553 of the Public Resources Code. The Legislative Analyst shall, not later than December 31, 2006, submit to the Legislature a report evaluating whether the termination date for the conservancy should be extended to meet the goals of Division 22.7 (commencing with Section 32550) of the Public Resources Code, and whether the land under the jurisdiction of the conservancy should be transferred to the control of the Department of Parks and Recreation for inclusion in the state park system.

CHAPTER 429

An act to amend Section 41365 of the Education Code, relating to charter schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 41365 of the Education Code is amended to read:

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. Money loaned to a chartering authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars ($250,000) over the lifetime of the charter school. A charter school may receive money obtained from multiple loans made directly to the charter school or to the school's chartering authority from the Charter School Revolving Loan Fund, as long as the total amount received from the fund over the lifetime of the charter school does not exceed two hundred fifty thousand dollars ($250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) The Superintendent of Public Instruction may consider all of the following when making a determination as to the approval of a charter school's loan application:

(1) Soundness of the financial business plans of the applicant charter school.

(2) Availability to the charter school of other sources of funding.

(3) Geographic distribution of loans made from the Charter School Revolving Loan Fund.

(4) The impact that receipt of funds received pursuant to this section will have on the charter school's receipt of other private and public financing.

(5) Plans for creative uses of the funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.

(6) The financial needs of the charter school.

(d) Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs.

(e) Commencing with the first fiscal year following the fiscal year the charter school receives the loan, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(f) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the chartering authority shall, also, be liable for repayment of the loan.

SEC. 1.5. Section 41365 of the Education Code is amended to read:

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. Money loaned to a chartering

authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars ($250,000) over the lifetime of the charter school. A charter school may receive money obtained from multiple loans made directly to the charter school or to the school's chartering authority from the Charter School Revolving Loan Fund, as long as the total amount received from the fund over the lifetime of the charter school does not exceed two hundred fifty thousand dollars ($250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) The Superintendent of Public Instruction may consider all of the following when making a determination as to the approval of a charter school's loan application:

(1) Soundness of the financial business plans of the applicant charter school.

(2) Availability to the charter school of other sources of funding.

(3) Geographic distribution of loans made from the Charter School Revolving Loan Fund.

(4) The impact that receipt of funds received pursuant to this section will have on the charter school's receipt of other private and public financing.

(5) Plans for creative uses of the funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.

(6) The financial needs of the charter school.

(d) Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs.

(e) Commencing with the first fiscal year following the fiscal year the charter school receives the loan, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(f) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the charter school shall be solely liable for repayment of the loan.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 41365 of the Education Code proposed by both this bill and SB 1759. 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 41365 of the Education Code, and (3) this bill is enacted after SB 1759, in which case Section 1 of this bill shall not become operative.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow charter schools to begin using loans from the Charter School Revolving Loan Fund beyond the first year in which the charter schools first enroll pupils and to thereby continue educating pupils enrolled in those schools, it is necessary that this act take effect immediately.

CHAPTER 430

An act to amend Section 538d of the Penal Code, relating to peace officers.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 538d of the Penal Code is amended to read:

538d. (a) Any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars ($15,000).

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 431

An act to amend Section 51256.2 of the Government Code, relating to land use.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 51256.2 of the Government Code is amended to read:

51256.2. (a) One or more cities or counties may adopt a plan for implementing the provisions of Section 51256 with respect to multiple transactions within one or more specific areas, and submit the plan to the director for his or her approval. The plan may be approved only upon a determination by the director that it is consistent with the provisions of Section 51256. Thereafter individual transactions shall be approved if they are consistent with the approved plan.

(b) Notwithstanding Section 51256, this section shall apply only to lands under contract located in the Counties of San Bernardino and Riverside, within the area bounded by Interstate 10 on the north, State Route 71 on the west, State Route 91 on the south, and a line two miles east of Interstate 15 on the east, and to easements within that area or within 10 miles of its exterior boundaries and within either Riverside County or San Bernardino County. For the purpose of this section, easements located within the described area may be related to contract rescissions in either county.

(c) The Legislature finds and declares that, because of the unique factors applicable only to the Chino Basin, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Those unique circumstances are that the Chino agricultural preserve is undergoing transition from agricultural to nonagricultural uses and the affected areas comprise more than a single jurisdiction. Therefore, a multijurisdictional approach is necessary.

SEC. 2. This act shall become operative only if AB 1944 is enacted and becomes effective on or before January 1, 2001.

CHAPTER 432

An act to add Section 60605.1 to the Education Code, relating to pupil instruction.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

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

(a) Evidence is growing that arts are critically important to education and learning. According to the College Entrance Examination Board, students of the arts outperform nonarts educated peers on measures of academic ability. In 1995, the Scholastic Assessment Text scores of students who studied the arts for more than four years were 59 points higher on the verbal test and 44 points higher on the math test than the scores of students with no education in the arts.

(b) It has been shown that strong cognitive links exist between the arts and science. Such cognitive reasoning includes the ability to explore new concepts and associations, to understand abstract ideas, to build models and recognize patterns. Further arts education also contributes to student learning and achievement by enhancing motivation, self-discipline, and understanding of others, appreciation of diversity, a positive school climate, and preparation for the world of work.

(c) Jobs and careers that involve artistic expression are becoming increasingly important. According to the office of the Governor, the entertainment industry alone contributes more than twenty-five billion dollars ($25,000,000,000) to the state's economy and generates more than six hundred million dollars ($600,000,000) in state tax revenues.

(d) For these reasons and others, it is important that visual and performing arts instruction be available for all students in order to increase cognitive reasoning and improve student performance.

(e) The visual and performing arts are a required component of instruction for pupils in grades 1 to 6, inclusive. To graduate from high school, pupils must complete a year of a visual or performing arts instruction.

(f) As school districts implement or strengthen instructional programs in visual or performing arts, it is important that content standards be developed to ensure that schools will provide instruction that contains rigorous content to expand and improve pupil learning.

SEC. 2. Section 60605.1 is added to the Education Code, to read:

60605.1. (a) No later than June 1, 2001, the State Board of Education shall adopt content standards, pursuant to recommendations developed by the Superintendent of Public Instruction, in the curriculum area of visual and performing arts.

(b) The content standards are intended to provide a framework for programs that a school may offer in the instruction of visual or performing arts. Nothing in this section shall be construed to require a school to follow the content standards.

(c) Nothing in this section shall be construed as mandating an assessment of pupils in visual or performing arts.

CHAPTER 433

An act to amend Section 18691 of the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 13, 2000.]

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

SECTION 1. Section 18691 of the Health and Safety Code is amended to read:

18691. (a) The department shall adopt rules and regulations that it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section within permanent buildings. The department, in consultation with local firefighting agencies, shall adopt and implement no later than January 1, 2002, regulations that require regular maintenance and periodic inspection and testing of fire hydrants in mobilehome parks.

(b) The regulations adopted by the department shall be applicable in all parks, except in a park within a city, county, or city and county that is the enforcement agency and has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by those building standards published in the California Building Standards Code and the other state regulations adopted by the department.

(c) Notwithstanding the provisions of this section, the rules and regulations adopted by the department relating to the installation of water supply and fire hydrant systems shall not apply within parks constructed, or approved for construction, prior to January 1, 1966.

(d) Notwithstanding the provisions of this section, a city, county, city and county, or special district that is not the enforcement agency under this part may enforce its fire prevention code in mobilehome parks relating to fire hydrant systems, water supply, fire equipment access, posting of fire equipment access, parking, lot identification, weed abatement, debris abatement, combustible storage abatement, and burglar bars. Before assuming fire code enforcement in accordance with this subdivision, a city, county, city and county, or special district shall give the department a 30-day written notice. A city, county, city and county, or special district that enforces its fire prevention code pursuant to this subdivision shall apply its code provisions to conditions that arise

after adoption of its fire prevention code, to conditions not legally in existence at the adoption of its fire prevention code, or to conditions that, in the opinion of the fire chief, constitute a distinct hazard to life or property.

CHAPTER 434

An act to amend Sections 1569.15, 1569.33, and 1569.616 of, and to add Sections 1569.626 and 1569.627 to, the Health and Safety Code, relating to Alzheimer's disease.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 14, 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 Alzheimer's Training Act of 2000.

SEC. 2. Section 1569.15 of the Health and Safety Code is amended to read:

1569.15. Any person desiring issuance of a license for a residential care facility for the elderly under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations adopted under this chapter by the department.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1569.17, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly which application for issuance of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any residential care facility for the elderly or in any facility

licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(g) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

(h) Following the implementation of Article 7 (commencing with Section 1569.70) evidence satisfactory to the department of the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(i) Evidence satisfactory to the department of adequate knowledge of supportive services and other community supports which may be necessary to meet the needs of elderly residents.

(j) A signed statement that the person desiring issuance of a license has read and understood the residential care facility for the elderly statute and regulations.

(k) Designation by the applicant of the individual who shall be the administrator of the facility, including, if the applicant is an individual, whether or not the licensee shall also be the administrator.

(*l*) Evidence of successfully completing a certified prelicensure education program pursuant to Section 1569.23.

(m) For any facility that promotes or advertises or plans to promote or advertise special care, special programming, or special environments for persons with dementia, disclosure to the department of the special features of the facility in its plan of operation.

SEC. 3. Section 1569.33 of the Health and Safety Code is amended to read:

1569.33. (a) Every licensed residential care facility for the elderly shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

(b) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this

chapter, and shall set a reasonable length of time for compliance by the facility.

(c) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(d) On and after July 1, 2001, as a part of the department's annual evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

SEC. 4. Section 1569.616 of the Health and Safety Code is amended to read:

1569.616. (a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department approved certification program prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator. The licensee shall notify the department within 30 days of any change in administrators.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the certification program but shall

not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Use, misuse, and interaction of medication commonly used by the elderly.

(H) Resident admission, retention, and assessment procedures.

(I) Training focused specifically on serving clients with dementia. This training shall be for at least four hours.

(2) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars ($100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation of passing the written test or of qualifying for an exemption pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of

certificates of completion. The department may waive the submission for those persons who have a current clearance on file.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c). For purposes of this section, individuals who hold a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) Every certified administrator of a residential care facility for the elderly is required to renew his or her certificate and shall complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b). On and after January 1, 2002, at least eight hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars ($100), irrespective of receipt of the department's notification of the renewal. A

renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars ($25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.

(g) The department may revoke a certificate issued under this section for any of the following:

(1) Procuring a certificate by fraud or misrepresentation.

(2) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.

(3) Criminal conviction unless an exemption is granted pursuant to Section 1569.17.

(h) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.

(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving certification programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

(2) The department may authorize vendors to conduct the administrator certification training program pursuant to provisions set

forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect training programs and continuing education courses to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars ($100) every two years for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

(k) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

SEC. 4.5. Section 1569.616 of the Health and Safety Code is amended to read:

1569.616. (a) (1) An administrator of a residential care facility for the elderly shall be required to successfully complete a department approved certification program prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, or a licensed nursing home administrator, the individual shall comply with the requirements of this section unless he or she qualifies for one of the exemptions provided for in subdivision (b).

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility where an individual is functioning as the administrator. The licensee shall notify the department within 30 days of any change in administrators.

(b) Individuals seeking exemptions under paragraph (2) of subdivision (a) shall meet the following criteria and fulfill the required portions of the certification program, as the case may be:

(1) An individual designated as the administrator of a residential care facility for the elderly who holds a valid license as a nursing home

administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code shall be required to complete the areas in the uniform core of knowledge required by this section that pertain to the law, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly, the use, misuse, and interaction of medication commonly used by the elderly in a residential setting, and resident admission, retention, and assessment procedures, equal to 12 hours of classroom instruction. An individual meeting the requirements of this paragraph shall not be required to take a written test.

(2) In those cases where the individual was both the licensee and administrator on or before July 1, 1991, the individual shall be required to complete all the areas specified for the certification program but shall not be required to take the written test required by this section. Those individuals exempted from the written test shall be issued a conditional certification that is valid only for the administrator of the facility for which the exemption was granted.

(A) As a condition to becoming an administrator of another facility the individual shall be required to pass the written test provided for in this section.

(B) As a condition to applying for a new facility license, the individual shall be required to pass the written test provided for in Section 1569.23.

(c) (1) The administrator certification program shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of residential care facilities for the elderly.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the elderly.

(E) Community and support services.

(F) Physical needs for elderly persons.

(G) Use, misuse, and interaction of medication commonly used by the elderly.

(H) Resident admission, retention, and assessment procedures.

(I) Training focused specifically on serving clients with dementia. This training shall be for at least four hours.

(2) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit the documentation required by subdivision (d) to the department within 30 days of being notified of having passed the test. The department may extend these time deadlines for good cause. The

department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. The department shall fix the amount of the fee so that the proceeds of the fees collected are sufficient to cover the department's regulatory enforcement costs, but in no event shall the fee exceed one hundred dollars ($100) .

(3) Documentation of passing the written test or of qualifying for an exemption pursuant to subdivision (b).

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current clearance on file.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a residential care facility for the elderly. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in paragraph (1) of subdivision (c). For purposes of this section, individuals who hold a valid license as a nursing home administrator issued in accordance with Chapter 8.5 (commencing with Section 3901) of Division 2 of the Business and Professions Code and meet the requirements of paragraph (1) of subdivision (b) shall only be required to complete 20 hours of continuing education.

(2) Every certified administrator of a residential care facility for the elderly is required to renew his or her certificate and shall complete the continuing education requirements of this subdivision whether he or she is certified according to subdivision (a) or (b). On and after January 1, 2002, at least eight hours of the 40-hour continuing education requirement for a certified administrator of a residential care facility for the elderly shall include instruction on serving clients with dementia, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to have his or her

recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, do both of the following:

(A) Request renewal by submitting to the department documentation of completion of the required continuing education courses , irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this subparagraph.

(B) Pay a renewal fee in the amount determined pursuant to paragraph (2) of subdivision (d).

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars ($25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.

(g) The department may revoke a certificate issued under this section for any of the following:

(1) Procuring a certificate by fraud or misrepresentation.

(2) Knowingly making or giving any false statement or information in conjunction with the application for issuance of a certificate.

(3) Criminal conviction unless an exemption is granted pursuant to Section 1569.17.

(h) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1569.50.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1569.58.

(i) (1) The department shall establish, by regulation, the program content, the testing instrument, the process for approving certification programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification programs and continuing education courses. These regulations shall be developed in consultation with provider and consumer organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person that has not provided satisfactory evidence of their ability to meet the requirements of vendorization set out in the regulations adopted pursuant to subdivision (j).

(2) The department may authorize vendors to conduct the administrator certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect training programs and continuing education courses to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars ($100) every two years for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(j) This section shall be operative upon regulations being adopted by the department to implement the administrator certification program as provided for in this section.

(k) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

SEC. 5. Section 1569.626 is added to the Health and Safety Code, to read:

1569.626. All residential care facilities for the elderly that advertise or promote special care, special programming, or a special environment for persons with dementia, in addition to complying with the training requirements described in Section 1569.625, shall meet the following training requirements for all direct care staff:

(a) Six hours of resident care orientation within the first four weeks of employment. All six hours shall be devoted to the care of persons with dementia. The facility may utilize various methods of instruction including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(b) Eight hours of in-service training per year on the subject of serving residents with dementia. This training shall be developed in consultation with individuals or organizations with specific expertise in dementia care or by an outside source with expertise in dementia care. In formulating and providing this training, reference may be made to written materials and literature on dementia and the care and treatment of persons with dementia. This training requirement may be satisfied in one day or over a period of time. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

SEC. 6. Section 1569.627 is added to the Health and Safety Code, to read:

1569.627. Any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia shall disclose to the department the special features of the facility in its plan of operation. This information shall be provided to the public by the facility upon request. The information shall include a brief narrative description of all of the following facility features:

(a) Philosophy, including, but not limited to, program goals.

(b) Preadmission assessment.

(c) Admission.

(d) Assessment.

(e) Program.

(f) Staff.

(g) Staff training.

(h) Physical environment.

(i) Changes in condition, including, but not limited to, when and under what circumstances are changes made to a participant's care plan.

(j) Success indicators.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 1569.616 of the Health & Safety Code proposed by both this bill and AB 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 1569.616 of the Health & Safety Code, and (3) this bill is enacted after AB 1445, in which case Section 4 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 435

An act to amend Section 14015 of the Welfare and Institutions Code, relating to health.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 14015 of the Welfare and Institutions Code is amended to read:

14015. (a) The providing of health care under this chapter shall not impose any limitation or restriction upon the person's right to sell, exchange or change the form of property holdings nor shall the care provided constitute any encumbrance on the holdings. However, the transfer or gift of assets, including income and resources, for less than fair market value shall, to the extent and under the circumstances set forth in Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) result in a period of ineligibility for aid.

(b) Pursuant to Section 1917 (c)(2)(C)(ii) of the federal Social Security Act (42 U.S.C. Sec. 1396p(c)(2)(C)(ii)), a satisfactory showing that assets transferred exclusively for a purpose other than to qualify for medical assistance shall not result in ineligibility for Medi-Cal and shall include, but not be limited to, the following:

(1) The property that would have been considered exempt for purposes of establishing eligibility pursuant to federal or state laws at the time of transfer.

(2) Property with a net market value that, when the property is transferred, if included in the property reserve, would not result in ineligibility.

(3) Property for which adequate consideration is received.

(4) Property upon which foreclosure or repossession was imminent at the time of transfer, provided there is no evidence of collusion.

(5) Assets transferred in return for an enforceable contract for life care that does not include complete medical care.

(6) Assets transferred without adequate consideration, provided that the applicant or beneficiary provides convincing evidence to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

(c) In administering this section, it shall be presumed that property transferred by the applicant or beneficiary prior to the look back period established by the department preceding the date of initial application was not transferred to establish eligibility or reduce the share of cost. This property shall not be considered in determining eligibility.

(d) Any item of durable medical equipment which is purchased for a recipient pursuant to this chapter exclusively with Medi-Cal program funds shall be returned to the department when the department determines that the item is no longer medically necessary for the recipient. Items of durable medical equipment shall include, but are not limited to, wheelchairs and special hospital beds.

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 436

An act to amend, repeal, and add Section 18824 of the Business and Professions Code, relating to athletic events, making an appropriation therefor.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 18824 of the Business and Professions Code is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the number of tickets issued or sold for the contest or wrestling exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time, pay to the commission a fee of 5 percent, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, except that for any one boxing contest, the fee shall not exceed the amount of one hundred thousand dollars ($100,000), and a fee of up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars ($1,000). The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars ($500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge. However, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar ($1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(b) If the fee on admissions for any one boxing contest exceeds seventy thousand dollars ($70,000), the amount in excess of seventy thousand dollars ($70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Account.

(c) As used in this section, ''person'' includes a promoter, club, individual, corporation, partnership, association or other organization, and ''wrestling exhibition'' means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) 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 18824 is added to the Business and Professions Code, to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the number of tickets issued or sold for the contest or wrestling exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time pay to the commission a 5 percent fee, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, and up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars ($1,000).

(b) The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars ($500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge; provided, however, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar ($1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary

ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(c) As used in this section, ''person'' includes a promoter, club, individual, corporation, partnership, association or other organization, and ''wrestling exhibition'' means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) This section shall become operative on January 1, 2006.

SEC. 3. The State Athletic Commission shall, by December 31, 2004, submit a report to the Legislature on the impact and effect of this act. The report shall include, at a minimum, an assessment of the act's impact on the following:

(a) The net changes in enhancing the ethical competition of the sport of boxing.

(b) The net increase in revenues collected by the commission.

(c) The net increase in revenues deposited into the Boxers' Pension Account.

CHAPTER 437

An act to amend Sections 17003, 17200.8, and 17409.1 of, and to add Sections 17005.2, 17005.3, and 17403.5 to, the Financial Code, relating to Internet escrow transactions.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 17003 of the Financial Code is amended to read:

17003. (a) ''Escrow'' means any transaction in which one person, for the purpose of effecting the sale, transfer, encumbering, or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by that third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter.

(b) With regard to Internet escrow companies, ''escrow'' also includes any transaction in which one person, for the purpose of effecting the sale or transfer of personal property or services to another person, delivers money, or its Internet-authorized equivalent, to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by that third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter.

SEC. 2. Section 17005.2 is added to the Financial Code, to read:

17005.2. ''Business location'' and ''business office location'' mean a facility or other place of business where a person engages in the business of receiving an escrow for deposit or delivery, but does not include a customer contact center.

SEC. 3. Section 17005.3 is added to the Financial Code, to read:

17005.3. ''Customer contact center'' means a facility operated by an Internet escrow agent that exists solely for the purpose of responding to customer electronic messages and telephone inquiries; provided, that no receipt or disbursements relating to an escrow are made from the facility; and provided further, that any documentation or other material generated, transmitted, or otherwise sent from the facility can be reviewed at any time from the business location of the Internet escrow agent.

SEC. 4. Section 17200.8 of the Financial Code is amended to read:

17200.8. (a) Within the organization of each escrow agent corporation, either as an owner, officer, or employee, there shall be one or more persons possessing a minimum of five years of responsible escrow or joint control experience to be stationed at the main office of the corporation and one or more persons possessing a minimum of four years of responsible escrow or joint control experience stationed at each branch. At least one such qualified person shall be stationed on duty at each business location licensed by this division during the time the location is open for business. A person who has satisfied educational requirements established by the commissioner may substitute education for up to one year of experience.

(b) Subdivision (a) does not apply to an Internet escrow agent with respect to escrows involving personal property. However, within the organization of each Internet escrow agent corporation engaged in the business of an escrow involving personal property, either as an owner, officer, or employee, one or more qualified persons shall possess knowledge and understanding of the Escrow Law (as set forth in Division 6 (commencing with Section 17000)), the rules promulgated thereunder, and accounting so that, among other things, appropriate books and records are used and maintained in order to account for

escrows involving personal property. At least one qualified person shall be on duty at each business location of an Internet escrow agent licensed by this division when operations are being conducted that require knowledge of accounting and the Escrow Law and regulations. An Internet escrow agent shall notify the commissioner of the daily business hours during which those operations are to be conducted.

SEC. 5. Section 17403.5 is added to the Financial Code, to read:

17403.5. (a) All records required by this chapter may be retained by an Internet escrow agent and provided to the commissioner in electronic format.

(b) All transfers by an Internet escrow agent between trust accounts and interest-bearing accounts, and between escrow accounts, may be made electronically.

(c) A statement of account may be delivered by an Internet escrow agent to a customer by electronic mail or via the Internet, unless otherwise requested by the customer.

SEC. 6. Section 17409.1 of the Financial Code is amended to read:

17409.1. (a) Each person subject to this chapter shall maintain separate escrow trust accounts for each licensed location. Transfers between accounts are prohibited except by the actual writing of a check from one escrow to the other, and by depositing the check for the account of, and the writing of a receipt for the escrow to which the funds are being transferred. Each transfer shall be properly supported and documented in escrow files by inclusion of escrow instructions executed by the principals authorizing the transfer.

(b) With regard to Internet escrow companies, transfers to trust accounts by commercial banks and from operating accounts to cover losses may be made through wire transfer. Receipts for all these transactions may be maintained in electronic form.

CHAPTER 438

An act to add and repeal Sections 7099.1 and 21028 of the Revenue and Taxation Code, and to add and repeal Section 13019 of the Unemployment Insurance Code, relating to taxation.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 7099.1 is added to the Revenue and Taxation Code, to read:

7099.1. (a) (1) With respect to tax advice, the protections of confidentiality that apply to a communication between a client and an attorney, as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a client and an attorney.

(2) Paragraph (1) may only be asserted in any noncriminal tax matter before the State Board of Equalization.

(3) For purposes of this section:

(A) ''Federally authorized tax practitioner'' means any individual who is authorized under federal law to practice before the Internal Revenue Service if the practice is subject to federal regulation under Section 330 of Title 31 of the United States Code, as provided by federal law as of January 1, 2000.

(B) ''Tax advice'' means advice given by an individual with respect to a state tax matter, which may include federal tax advice if it relates to the state tax matter. For purposes of this subparagraph, ''federal tax advice'' means advice given by an individual within the scope of his or her authority to practice before the federal Internal Revenue Service on noncriminal tax matters.

(C) ''Tax shelter'' means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of that partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(b) The privilege under subdivision (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of the corporation in any tax shelter, or in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency.

(c) This section shall be operative for communications made on or after the effective date of the act adding this section.

(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 21028 is added to the Revenue and Taxation Code, to read:

21028. (a) (1) With respect to tax advice, the protections of confidentiality that apply to a communication between a client and an attorney, as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, shall also apply to a communication between a taxpayer and any federally authorized tax

practitioner to the extent the communication would be considered a privileged communication if it were between a client and an attorney.

(2) Paragraph (1) may only be asserted in any noncriminal tax matter before the Franchise Tax Board.

(3) For purposes of this section:

(A) ''Federally authorized tax practitioner'' means any individual who is authorized under federal law to practice before the Internal Revenue Service if the practice is subject to federal regulation under Section 330 of Title 31 of the United States Code, as provided by federal law as of January 1, 2000.

(B) ''Tax advice'' means advice given by an individual with respect to a state tax matter, which may include federal tax advice if it relates to the state tax matter. For purposes of this subparagraph, ''federal tax advice'' means advice given by an individual within the scope of his or her authority to practice before the federal Internal Revenue Service on noncriminal tax matters.

(C) ''Tax shelter'' means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of that partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(b) The privilege under subdivision (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of the corporation in any tax shelter, or in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency.

(c) This section shall be operative for communications made on or after the effective date of the act adding this section.

(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 13019 is added to the Unemployment Insurance Code, to read:

13019. (a) (1) With respect to tax advice, the protections of confidentiality that apply to a communication between a client and an attorney, as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a client and an attorney.

(2) Paragraph (1) may only be asserted in any noncriminal tax matter before the Employment Development Department.

(3) For purposes of this section:

(A) ''Federally authorized tax practitioner'' means any individual who is authorized under federal law to practice before the Internal Revenue Service if the practice is subject to federal regulation under Section 330 of Title 31 of the United States Code, as provided by federal law as of January 1, 2000.

(B) ''Tax advice'' means advice given by an individual with respect to a state tax matter, which may include federal tax advice if it relates to the state tax matter. For purposes of this subparagraph, ''federal tax advice'' means advice given by an individual within the scope of his or her authority to practice before the federal Internal Revenue Service on noncriminal tax matters.

(C) ''Tax shelter'' means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of that partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(b) The privilege under subdivision (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of the corporation in any tax shelter, or in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency.

(c) This section shall be operative for communications made on or after the effective date of the act adding this section.

(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.

CHAPTER 439

An act to add Chapter 5.6 (commencing with Section 6450) to Division 3 of, and to repeal Section 6450 of, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Chapter 5.6 (commencing with Section 6450) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 5.6. PARALEGALS

6450. (a) ''Paralegal'' means a person who either contracts with or is employed by an attorney, law firm, corporation, governmental agency, or other entity and who performs substantial legal work under the direction and supervision of an active member of the State Bar of California, as defined in Section 6060, or an attorney practicing law in the federal courts of this state, that has been specifically delegated by the attorney to him or her. Tasks performed by a paralegal include, but are not limited to, case planning, development, and management; legal research; interviewing clients; fact gathering and retrieving information; drafting and analyzing legal documents; collecting, compiling, and utilizing technical information to make an independent decision and recommendation to the supervising attorney; and representing clients before a state or federal administrative agency if that representation is permitted by statute, court rule, or administrative rule or regulation.

(b) Notwithstanding subdivision (a), a paralegal shall not do any of the following:

(1) Provide legal advice.

(2) Represent a client in court.

(3) Select, explain, draft, or recommend the use of any legal document to or for any person other than the attorney who directs and supervises the paralegal.

(4) Act as a runner or capper, as defined in Sections 6151 and 6152.

(5) Engage in conduct that constitutes the unlawful practice of law.

(6) Contract with, or be employed by, a natural person other than an attorney to perform paralegal services.

(7) In connection with providing paralegal services, induce a person to make an investment, purchase a financial product or service, or enter a transaction from which income or profit, or both, purportedly may be derived.

(8) Establish the fees to charge a client for the services the paralegal performs, which shall be established by the attorney who supervises the paralegal's work. This paragraph does not apply to fees charged by a paralegal in a contract to provide paralegal services to an attorney, law firm, corporation, governmental agency, or other entity as provided in subdivision (a).

(c) A paralegal shall possess at least one of the following:

(1) A certificate of completion of a paralegal program approved by the American Bar Association.

(2) A certificate of completion of a paralegal program at, or a degree from, a postsecondary institution that requires the successful completion of a minimum of 24 semester, or equivalent, units in law-related courses and that has been accredited by a national or regional accrediting

organization or approved by the Bureau for Private Postsecondary and Vocational Education.

(3) A baccalaureate degree or an advanced degree in any subject, a minimum of one year of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks.

(4) A high school diploma or general equivalency diploma, a minimum of three years of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks. This experience and training shall be completed no later than December 31, 2003.

(d) All paralegals shall be required to certify completion every three years of four hours of mandatory continuing legal education in legal ethics. All continuing legal education courses shall meet the requirements of Section 6070. Every two years, all paralegals shall be required to certify completion of four hours of mandatory continuing education in either general law or in a specialized area of law. Certification of these continuing education requirements shall be made with the paralegal's supervising attorney. The paralegal shall be responsible for keeping a record of the paralegal's certifications.

(e) A paralegal does not include a nonlawyer who provides legal services directly to members of the public or a legal document assistant or unlawful detainer assistant as defined in Section 6400.

(f) If a legal document assistant, as defined in subdivision (c) of Section 6400, has registered, on or before January 1, 2001, as required by law, a business name that includes the word ''paralegal,'' that person may continue to use that business name until he or she is required to renew registration.

(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.

6450. (a) ''Paralegal'' means a person who either contracts with or is employed by an attorney, law firm, corporation, governmental agency, or other entity and who performs substantial legal work under the direction and supervision of an active member of the State Bar of California, as defined in Section 6060, or an attorney practicing law in the federal courts of this state, that has been specifically delegated by the attorney to him or her. Tasks performed by a paralegal include, but are

not limited to, case planning, development, and management; legal research; interviewing clients; fact gathering and retrieving information; drafting and analyzing legal documents; collecting, compiling, and utilizing technical information to make an independent decision and recommendation to the supervising attorney; and representing clients before a state or federal administrative agency if that representation is permitted by statute, court rule, or administrative rule or regulation.

(b) Notwithstanding subdivision (a), a paralegal shall not do the following:

(1) Provide legal advice.

(2) Represent a client in court.

(3) Select, explain, draft, or recommend the use of any legal document to or for any person other than the attorney who directs and supervises the paralegal.

(4) Act as a runner or capper, as defined in Sections 6151 and 6152.

(5) Engage in conduct that constitutes the unlawful practice of law.

(6) Contract with, or be employed by, a natural person other than an attorney to perform paralegal services.

(7) In connection with providing paralegal services, induce a person to make an investment, purchase a financial product or service, or enter a transaction from which income or profit, or both, purportedly may be derived.

(8) Establish the fees to charge a client for the services the paralegal performs, which shall be established by the attorney who supervises the paralegal's work. This paragraph does not apply to fees charged by a paralegal in a contract to provide paralegal services to an attorney, law firm, corporation, governmental agency, or other entity as provided in subdivision (a).

(c) A paralegal shall possess at least one of the following:

(1) A certificate of completion of a paralegal program approved by the American Bar Association.

(2) A certificate of completion of a paralegal program at, or a degree from, a postsecondary institution that requires the successful completion of a minimum of 24 semester, or equivalent, units in law-related courses and that has been accredited by a national or regional accrediting organization or approved by the Bureau for Private Postsecondary and Vocational Education.

(3) A baccalaureate degree or an advanced degree in any subject, a minimum of one year of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks.

(4) A high school diploma or general equivalency diploma, a minimum of three years of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks. This experience and training shall be completed no later than December 31, 2003.

(d) All paralegals shall be required to certify completion every three years of four hours of mandatory continuing legal education in legal ethics. All continuing legal education courses shall meet the requirements of Section 6070. Every two years, all paralegals shall be required to certify completion of four hours of mandatory continuing education in either general law or in a specialized area of law. Certification of these continuing education requirements shall be made with the paralegal's supervising attorney. The paralegal shall be responsible for keeping a record of the paralegal's certifications.

(e) A paralegal does not include a nonlawyer who provides legal services directly to members of the public, or a legal document assistant or unlawful detainer assistant as defined in Section 6400, unless the person is a person described in subdivisions (a) and (b).

(f) This section shall become operative on January 1, 2004.

6451. It is unlawful for a paralegal to perform any services for a consumer except as performed under the direction and supervision of the attorney, law firm, corporation, government agency, or other entity that employs or contracts with the paralegal. Nothing in this section shall prohibit a paralegal who is employed by an attorney, law firm, governmental agency, or other entity from providing services to a consumer served by one of these entities if those services are specifically allowed by statute, case law, court rule, or federal or state administrative rule or regulation. ''Consumer'' means a natural person, firm, association, organization, partnership, business trust, corporation, or public entity.

6452. (a) It is unlawful for a person to identify himself or herself as a paralegal on any advertisement, letterhead, business card or sign, or elsewhere unless he or she has met the qualifications of subdivision (c) of Section 6450 and performs all services under the direction and supervision of an attorney who is an active member of the State Bar of California or an attorney practicing law in the federal courts of this state who is responsible for all of the services performed by the paralegal. The business card of a paralegal shall include the name of the law firm where he or she is employed or a statement that he or she is employed by or contracting with a licensed attorney.

(b) An attorney who uses the services of a paralegal is liable for any harm caused as the result of the paralegal's negligence, misconduct, or violation of this chapter.

6453. A paralegal is subject to the same duty as an attorney specified in subdivision (e) of Section 6068 to maintain inviolate the confidentiality, and at every peril to himself or herself to preserve the attorney-client privilege, of a consumer for whom the paralegal has provided any of the services described in subdivision (a) of Section 6450.

6454. The terms ''paralegal,'' ''legal assistant,'' ''attorney assistant,'' ''freelance paralegal,'' ''independent paralegal,'' and ''contract paralegal'' are synonymous for purposes of this chapter.

6455. (a) Any consumer injured by a violation of this chapter may file a complaint and seek redress in any municipal or superior court for injunctive relief, restitution, and damages. Attorney's fees shall be awarded in this action to the prevailing plaintiff.

(b) Any person who violates the provisions of Section 6451 or 6452 is guilty of an infraction for the first violation, which is punishable upon conviction by a fine of up to two thousand five hundred dollars ($2,500) as to each consumer with respect to whom a violation occurs, and is guilty of a misdemeanor for the second and each subsequent violation, which is punishable upon conviction by a fine of two thousand five hundred dollars ($2,500) as to each consumer with respect to whom a violation occurs, or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Any person convicted of a violation of this section shall be ordered by the court to pay restitution to the victim pursuant to Section 1202.4 of the Penal Code.

6456. An individual employed by the state as a paralegal, legal assistant, legal analyst, or similar title, is exempt from the provisions of this chapter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CHAPTER 440

An act to amend Sections 2183 and 2191.2 of, to add Sections 2190.2 and 2190.3 to, and to repeal Section 2179.5 of, the Business and Professions Code, and to amend Sections 105105 and 105120 of, and to add Sections 105101 and 105112 to, to repeal Section 105135 of, and to repeal and add Section 105100 of, the Health and Safety Code, relating to geriatric medicine.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 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, the Geriatric Medical Training Act of 2000.

SEC. 2. Section 2179.5 of the Business and Professions Code is repealed.

SEC. 3. Section 2183 of the Business and Professions Code is amended to read:

2183. An applicant for a physician's and surgeon's certificate shall pass the national examination for medical licensure in biomedical sciences and clinical sciences, including geriatric medicine, determined by the Division of Licensing to be essential for the unsupervised practice of medicine.

An applicant who applies for a physician's and surgeon's certificate on or after January 1, 2004, shall have completed coursework in geriatric medicine in medical school or in postgraduate medical education training.

SEC. 4. Section 2190.2 is added to the Business and Professions Code, to read:

2190.2. The Division of Licensing shall establish criteria that providers of continuing medical education shall follow to ensure attendance by licensees throughout the entire course.

SEC. 5. Section 2190.3 is added to the Business and Professions Code, to read:

2190.3. All general internists and family physicians who have a patient population of which over 25 percent are 65 years of age or older shall complete at least 20 percent of all mandatory continuing education hours in a course in the field of geriatric medicine or the care of older patients.

SEC. 6. Section 2191.2 of the Business and Professions Code is amended to read:

2191.2. The division shall encourage every physician and surgeon to take a course in geriatric medicine, including geriatric pharmacology, as part of his or her continuing education.

SEC. 7. Section 105100 of the Health and Safety Code is repealed.

SEC. 8. Section 105100 is added to the Health and Safety Code, to read:

105100. The Legislature finds and declares all of the following:

(a) In 1998, there were about 3.57 million Californians age 65 and older, a 15 percent increase since 1990. This number will at least increase to five million in 2010 and grow to seven million by 2020, with those persons over age 85 representing the fastest growing segment of the population.

(b) By 2020, the numbers of Hispanic, African American, and other minority older persons will more than quadruple to an estimated total of at least 2.8 million.

(c) The age group over 75 has the highest rate of health care utilization of all groups.

(d) The higher prevalence of chronic conditions in those age 65 and older results in greater use of physician services. On average, they visit a physician nine times a year compared to five visits by the general population. They are hospitalized over three times as often as the younger population, stay 50 percent longer, and use twice as many prescription drugs.

(e) The knowledge and skill base in geriatrics, which is essential to the provision of medical care to older patients, has not been adequately integrated into the training of today's doctors and other health care professionals.

(f) If resources are not invested now for better training in geriatrics, there will be an inadequate supply of doctors properly trained to treat older patients by 2010.

(g) The Academic Geriatric Resource Program was established in 1984 as a mechanism for developing within the University of California new educational initiatives in geriatrics, gerontology, and other disciplines relating to aging. The program originally was funded at one million dollars ($1,000,000). Funding has not kept pace with inflation or need. The program in 1999 was funded at one million one hundred thousand dollars ($1,100,000).

(h) The Association of American Medical Colleges acknowledged the problem of inadequate medical education in geriatrics in December 1999 by launching a new program to enhance the gerontology and geriatric curricula at United States medical schools. The association recognized that geriatrics should ''be represented in a more coherent and comprehensive manner in the curricula of all U.S. medical schools.''

SEC. 9. Section 105101 is added to the Health and Safety Code, to read:

105101. It is the intent of the Legislature that the University of California provide academic courses and training in the field of geriatrics for medical students and existing general internists and family physicians in order to ensure that every general internist and family physician, along with other professions, have the requisite knowledge and skills to competently treat the older population by the year 2010 when the baby boomer generation begins to retire.

SEC. 10. Section 105105 of the Health and Safety Code is amended to read:

105105. It is the purpose of the Legislature, in enacting this chapter, for the University of California to establish academic geriatric resource programs and encourage the development of expanded educational and community service programs in geriatric medicine at its medical schools or other health science campuses. A multidisciplinary approach shall be utilized in the development of these programs. The programs shall include, but not be limited to, one or more of the following elements:

(a) Preclinical, clinical, or postgraduate educational programs in geriatrics for health science students to instruct and train them in recognizing and responding to the needs and dynamics of the health care of older patients.

(b) Provision of continuing education in geriatrics for health care providers and the general public.

(c) A teaching nursing home program to research nursing home health care practices and to instruct and train health science students about geriatric care.

(d) Development and evaluation of the best practices for the health care of older persons.

(e) Development and evaluation of interdisciplinary models of geriatric training.

(f) Development and evaluation of innovative health care delivery sites and programs for older persons.

SEC. 11. Section 105120 of the Health and Safety Code is amended to read:

105120. The Legislature requests that, on March 30, 2001, and biennially thereafter, the Regents of the University of California submit a progress report to the Legislature, including copies to the members of the Assembly Committee on Aging and Long-Term Care, the members of the Senate Health and Human Services Subcommittee on Aging and Long-Term Care, and the Chairpersons of the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review, regarding the grant programs established pursuant to this chapter. The report should include, but not be limited to, all of the following elements:

(a) A description of the progress made in implementing and maintaining the programs.

(b) The number of academic geriatric resource programs established.

(c) The characteristics and costs of the programs.

(d) A summary of the progress towards developing and implementing educational and community service programs in geriatric medicine at each campus.

(e) An evaluation of the program's effectiveness at each campus, including identification of problems and limitations, and strategies to overcome them.

The report should separately delineate the information required pursuant to this section with respect to each medical or health science campus that receives funding under a grant program established pursuant to this chapter.

SEC. 12. Section 105112 is added to the Health and Safety Code, to read:

105112. (a) It is the intent of the Legislature that University of California medical students complete a definable curriculum in geriatric medicine over the course of their medical school training to meet recommended core competencies for the care of older persons. It is the intent of the Legislature that this curriculum instill the attitudes, knowledge, and skills that physicians need to provide competent and compassionate care for older persons, including both didactic and clinical experiences encompassing the spectrum of health status of older persons and community-based sites for clinical training.

(b) It is the intent of the Legislature that University of California medical residents in internal medicine, family practice, and psychiatry complete a definable curriculum in geriatric medicine over the course of their residency training. It is the intent of the Legislature that this curriculum instill the attitudes, knowledge, and skills that physicians practicing these specialties need to provide competent and compassionate care for older persons. This curriculum should encompass the spectrum of health status of older persons and include community-based sites for clinical training.

(c) It is the intent of the Legislature that the University of California be responsible for developing, implementing, maintaining, and evaluating the geriatric medicine content needed in the curriculum. The curriculum shall take into consideration the recommendations of the Institute of Medicine of the National Academy of Sciences, the American Geriatric Society, and other nationally recognized medical organizations. The expanded geriatric medicine program and curriculum should be developed and implemented at each University of California school of medicine as soon as possible, but no later than September 1, 2003.

(d) The Legislature requests that, no later than March 30, 2003, the Regents of the University of California submit a progress report on the status of the implementation of a definable curriculum in geriatric medicine at each campus in accordance with this act.

(e) The Legislature requests that, no later than March 30, 2004, the Regents of the University of California submit a report on the status of the implementation of a definable curriculum in geriatric medicine at each campus. The report should include the total number of hours of geriatric instruction to be given at each school of medicine and the number of weeks of that instruction or experience provided at each medical school. This report should be written by a committee that is specifically charged with reporting on the status of the implementation of this section. The majority of committee members should be national experts in the geriatric field who are not University of California employees.

(f) The Legislature requests that every 5 years, commencing no later than June 30, 2005, the Regents of the University of California submit a report describing progress in geriatrics training and related initiatives at each campus in accordance with the act. This report should be written by a committee that is specifically charged with evaluating this progress. The majority of committee members should be national experts in the geriatric field who are not University of California employees.

(g) Copies of the reports requested in subdivisions (d), (e), and (f) are to be submitted to the members of the Assembly Committee on Aging and Long-Term Care, the members of the Senate Health and Human Services Subcommittee on Aging and Long-Term Care, and the Chairpersons of the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review.

(h) It is the intent of the Legislature that the professors occupying the University of California endowed chairs in geriatric medicine funded in the 2000–01 Budget Act provide leadership in developing and implementing the expanded geriatric medicine programs and curriculum at the University of California, and that one-time funds provided to the Academic Geriatric Resource Program in the 2000–01 Budget Act also be used to expand geriatric medicine programs and curriculum at the University to implement subdivisions (a) and (b) of Section 105112 of the Health and Safety Code.

SEC. 13. Section 105135 of the Health and Safety Code is repealed.

CHAPTER 441

An act to add and repeal Chapter 6 (commencing with Section 55720) of Part 2 of Division 2 of Title 5 of the Government Code, relating to local government finance.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Chapter 6 (commencing with Section 55720) is added to Part 2 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 6. TELECOMMUTING PROPERTY AMOUNT

55720. (a) The Board of Supervisors of the County of San Diego may enter into an agreement with the owner of ''telecommuting center property'' to pay to that owner in each fiscal year, for a period not to exceed five consecutive fiscal years, a Telecommuting Property Amount (TPA). Any agreement that is entered into pursuant to this subdivision shall specify matters including, but not limited to, both of the following:

(1) Those conditions that the owner of the property is required to meet to receive a TPA.

(2) That period of consecutive fiscal years to which it applies. The agreement shall designate as the first fiscal year of that period the first fiscal year beginning after the date upon which the County of San Diego enters into the agreement.

No agreement entered into pursuant to this subdivision shall become invalid by reason of the repeal of this chapter.

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

(1) ''Telecommuting center property'' means tangible personal property that meets all of the following requirements:

(A) The property is directly involved in providing not less than 10 separate fully functional work stations with access to high speed data communications, including, but not limited to, telecommunications services, cable services, broadcast services, mobile services, wireless services, satellite services, and Internet access.

(B) The property is located at a remote worksite not less than 15 miles from the normal workplace.

(C) Ancillary services may include facsimile transmissions, high volume copying, laser printing, video conferencing, and voice mail.

(D) Use of the property will lead to usage by at least 10 full-time employees for not less than one regular workday of each week.

(E) Employees using the telecommuting center property will, by going to the telecommuting center, reduce their travel distance from home to work location by not less than 15 miles one way.

(F) The Board of Supervisors of the County of San Diego shall make a finding, in its sole discretion, that the property meets the requirements of subparagraphs (A) through (E).

(2) ''Telecommuting Property Amount'' means an amount equal to the amount of ad valorem property tax revenue derived from that telecommuting center property for that fiscal year that is allocated to the County of San Diego pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(c) The County of San Diego may cease any further payment of a TPA under an agreement entered into by the county pursuant to subdivision (a), and may recapture from the recipient-owner the amount of any or every TPA previously paid to that recipient-owner under the agreement, if, at any time during the term of that agreement, the county determines that either of the following is true:

(1) The property with respect to which the agreement was entered into does not qualify as telecommuting property as defined in paragraph (1) of subdivision (b).

(2) The owner-recipient is not in compliance with the conditions set forth in the agreement for the receipt of a TPA.

(d) This section applies only with respect to property that is placed in service on or after January 1, 2001.

55721. This chapter 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.

55722. The County of San Diego shall, in consultation with the Governor's Office of Planning and Research and in conjunction with the Office of the Legislative Analyst, collect data on the efficiency and effectiveness of this pilot program and report that data to the Legislative Analyst on or before October 1, 2004. On or before January 1, 2005, the Legislative Analyst shall report that data to the Governor and to the Senate and Assembly Committees on Local Government.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 442

An act to add Section 6177 to the Business and Professions Code, and to amend and renumber Section 10193 of, to amend Section 10234.8 of, and to add Section 789.8 to, the Insurance Code, and to amend Section 15610.30 of the Welfare and Institutions Code, relating to elder abuse.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 6177 is added to the Business and Professions Code, to read:

6177. The State Bar by December 31 of each year shall report to the Legislature on the number of complaints filed against California attorneys alleging a violation of this article. The report shall also include the type of charges made in each complaint, the number of resulting investigations initiated, and the number and nature of any disciplinary actions take by the State Bar for violations of this article.

SEC. 2. Section 789.8 is added to the Insurance Code, to read:

789.8. (a) ''Elder'' for purposes of this section means any person residing in this state, 65 years of age or older.

(b) If a life agent offers to sell to an elder any life insurance or annuity product, the life agent shall advise an elder or elder's agent in writing that the sale or liquidation of any stock, bond, IRA, certificate of deposit, mutual fund, annuity, or other asset to fund the purchase of this product may have tax consequences, early withdrawal penalties, or other costs or penalties as a result of the sale or liquidation, and that the elder or elder's agent may wish to consult independent legal or financial advice before selling or liquidating any assets and prior to the purchase of any life or annuity products being solicited, offered for sale, or sold. This section does not apply to a credit life insurance product as defined in Section 779.2.

(c) A life agent who offers for sale or sells a financial product to an elder on the basis of the product's treatment under the Medi-Cal program may not negligently misrepresent the treatment of any asset under the statutes and rules and regulations of the Medi-Cal program, as it pertains to the determination of the elder's eligibility for any program of public assistance.

(d) A life agent who offers for sale or sells any financial product on the basis of its treatment under the Medi-Cal program shall provide, in writing, the following disclosure to the elder or the elder's agent:

"NOTICE REGARDING STANDARDS FOR MEDI-CAL ELIGIBILITY

If you or your spouse are considering purchasing a financial product based on its treatment under the Medi-Cal program, read this important message!

You or your spouse do not have to use up all of your savings before applying for Medi-Cal.

UNMARRIED RESIDENT

An unmarried resident may be eligible for Medi-Cal benefits if he or she has less than (insert amount of individual's resource allowance) in countable resources.

The Medi-Cal recipient is allowed to keep from his or her monthly income a personal allowance of (insert amount of personal needs allowance) plus the amount of any health insurance premiums paid. The remainder of the monthly income is paid to the nursing facility as a monthly share of cost.

MARRIED RESIDENT

COMMUNITY SPOUSE RESOURCE ALLOWANCE: If one spouse lives in a nursing facility, and the other spouse does not live in a facility, the Medi-Cal program will pay some or all of the nursing facility costs as long as the couple together does not have more than (insert amount of community countable assets).

MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE: If a spouse is eligible for Medi-Cal payment of nursing facility costs, the spouse living at home is allowed to keep a monthly income of at least his or her individual monthly income or (insert amount of the minimum monthly maintenance needs allowance), whichever is greater.

FAIR HEARINGS AND COURT ORDERS

Under certain circumstances, an at-home spouse can obtain an order from an administrative law judge or court that will allow the at-home spouse to retain additional resources or income. The order may allow the couple to retain more than (insert amount of community spouse resource allowance plus individual's resource allowance) in countable resources. The order also may allow the at-home spouse to retain more than (insert amount of the monthly maintenance need allowance) in monthly income.

REAL AND PERSONAL PROPERTY EXEMPTIONS

Many of your assets may already be exempt. Exempt means that the assets are not counted when determining eligibility for Medi-Cal.

REAL PROPERTY EXEMPTIONS

ONE PRINCIPAL RESIDENCE. One property used as a home is exempt. The home will remain exempt in determining eligibility if the applicant intends to return home someday.

The home also continues to be exempt if the applicant's spouse or dependent relative continues to live in it.

Money received from the sale of a home can be exempt for up to six months if the money is going to be used for the purchase of another home.

REAL PROPERTY USED IN A BUSINESS OR TRADE. Real estate used in a trade or business is exempt regardless of its equity value and whether it produces income.

PERSONAL PROPERTY AND OTHER EXEMPT ASSETS

IRAs, KEOGHs, AND OTHER WORK-RELATED PENSION PLANS. These funds are exempt if the family member whose name it is in does not want Medi-Cal. If held in the name of a person who wants Medi-Cal and payments of principal and interest are being received, the balance is considered unavailable and is not counted. It is not necessary to annuitize, convert to an annuity, or otherwise change the form of the assets in order for them to be unavailable.

PERSONAL PROPERTY USED IN A TRADE OR BUSINESS.

ONE MOTOR VEHICLE.

IRREVOCABLE BURIAL TRUSTS OR IRREVOCABLE PREPAID BURIAL CONTRACTS.

THERE MAY BE OTHER ASSETS THAT MAY BE EXEMPT.

This is only a brief description of the Medi-Cal eligibility rules, for more detailed information, you should call your county welfare department. Also, you are advised to contact a legal services program for seniors or an attorney that is not connected with the sale of this product.

I have read the above notice and have received a copy.

Dated: _____ Signature: _____''

The statement required in this subdivision shall be printed in at least 12-point type, shall be clearly separate from any other document or writing, and shall be signed by the prospective purchaser and that person's spouse, and legal representative, if any.

(e) The State Department of Health Services shall update this form to ensure consistency with state and federal law and make the disclosure available to agents and brokers through its Internet website.

(f) Nothing in this section allows or is intended to allow the unlawful practice of law.

(g) Subdivisions (b) and (d) shall become operative on July 1, 2001.

SEC. 3. Section 10193 of the Insurance Code is amended and renumbered to read:

10192.55. (a) With regard to Medicare supplement insurance, all insurers, brokers, agents, and others engaged in the business of insurance owe a policyholder or a prospective policyholder a duty of honesty, and a duty of good faith and fair dealing.

(b) Conduct of an insurer, broker, or agent during the offer and sale of a policy previous to the purchase is relevant to any action alleging a breach of the duty of honesty, and a duty of good faith and fair dealing.

SEC. 4. Section 10234.8 of the Insurance Code is amended to read:

10234.8. (a) With regard to long-term care insurance, all insurers, brokers, agents, and others engaged in the business of insurance owe a policyholder or a prospective policyholder a duty of honesty, and a duty of good faith and fair dealing.

(b) Conduct of an insurer, broker, or agent during the offer and sale of a policy previous to the purchase is relevant to any action alleging a breach of the duty of honesty, and a duty of good faith and fair dealing.

SEC. 5. Section 15610.30 of the Welfare and Institutions Code is amended to read:

15610.30. (a) ''Financial abuse'' of an elder or dependent adult occurs when a person or entity does any of the following:

(1) Takes, secretes, appropriates, or retains real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.

(2) Assists in taking, secreting, appropriating, or retaining real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates or retains possession of property in bad faith.

(1) A person or entity shall be deemed to have acted in bad faith if the person or entity knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available to the elder or dependent adult or to his or her representative.

(2) For purposes of this section, a person or entity should have known of a right specified in paragraph (1) if, on the basis of the information received by the person or entity or the person or entity's authorized third party, or both, it is obvious to a reasonable person that the elder or dependent adult has a right specified in paragraph (1).

(c) For purposes of this section, ''representative'' means a person or entity that is either of the following:

(1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.

(2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

CHAPTER 443

An act to amend Sections 17210, 17210.1, 17213.1, and 17213.2 of, and to add Section 17072.18 to, the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 17072.18 is added to the Education Code, to read:

17072.18. The board may provide funding for response costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other remedial action in connection with hazardous substances at a schoolsite, in the same manner as provided in Section 17072.13, to a school district that has not applied for, or received, funds from the board for the acquisition of a schoolsite, but which has incurred, or will incur, response costs necessary for the development of the site, before it can undertake construction at the site, in accordance with the requirements of this chapter, and which is otherwise eligible to receive funds under this chapter.

SEC. 2. 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, a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, 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, any person who conducts Phase I environmental assessments shall have a least two years experience in the preparation of those assessments and any person 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. A Phase I environmental assessment conducted pursuant to the requirements adopted by the American Society for Testing and Materials for due diligence for commercial real estate transactions and that includes a review of all reasonably available records and data bases regarding current and prior gas or oil wells and naturally occurring hazardous materials located on the site or located where they could potentially effect the site, satisfies the requirements of this article for conducting a Phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a Phase I environmental assessment for purposes of schoolsites that impose different requirements from those imposed by the American Society for Testing and Materials.

(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. 3. Section 17210.1 of the Education Code is amended to read:

17210.1. (a) Notwithstanding any other provision of law:

(1) For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10), the state act applies to schoolsites where naturally occurring hazardous materials are present, regardless of whether there has been a release or there is a threatened release of a hazardous material.

(2) For sites addressed by this article for which school districts elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10), all references in the state act to hazardous substances shall be deemed to include hazardous materials and all references in the state act to public health shall be deemed to include children's health.

(3) All risk assessments conducted by school districts that elect to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) at sites addressed by this article shall include a focus on the risks to children's health posed by a hazardous materials release or threatened release, or the presence of naturally occurring hazardous materials, on the schoolsite.

(4) The response actions selected under this article shall, at a minimum, be protective of children's health, with an ample margin of safety.

(b) In implementing this article, a school district shall provide a notice to residents in the immediate area, approved in form by the Department of Toxic Substances Control, prior to the commencement of work on a preliminary endangerment assessment.

(c) Nothing in this article shall be construed to limit the authority of the Department of Toxic Substances Control or the State Department of Education to take any action otherwise authorized under any other provision of law.

(d) Unless the Legislature otherwise funds its costs for overseeing actions taken pursuant to this article, the Department of Toxic Substances Control shall comply with Chapter 6.66 (commencing with Section 25269) of Division 20 of the Health and Safety Code when recovering its costs incurred in carrying out its duties pursuant to this article.

(e) Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code does not apply to schoolsites at which all necessary response actions have been completed.

SEC. 4. Section 17213.1 of the Education Code is amended to read:

17213.1. As a condition of receiving state funding pursuant to Chapter 12.5 (commencing with Section 17070.10) the governing board of a school district shall comply with subdivision (a), and is not required to comply with subdivision (a) of Section 17213, prior to the acquisition of a schoolsite, or if the school district owns or leases a schoolsite, prior to the construction of a project.

(a) Prior to acquiring a schoolsite the governing board shall contract with an environmental assessor to supervise the preparation of and sign a Phase I environmental assessment of the proposed schoolsite unless the governing board decides to proceed directly to a preliminary endangerment assessment, in which case it shall comply with paragraph (4).

(1) The Phase I environmental assessment shall contain one of the following recommendations:

(A) A further investigation of the site is not required.

(B) A preliminary endangerment assessment is needed, including sampling or testing, to determine the following:

(i) If a release of hazardous material has occurred and, if so, the extent of the release.

(ii) If there is the threat of a release of hazardous materials.

(iii) If a naturally occurring hazardous material is present.

(2) If the Phase I environmental assessment concludes that further investigation of the site is not required, the assessment together with all documentation related to the proposed acquisition or use of the proposed schoolsite shall be submitted to the State Department of Education. A school district may submit a Phase I environmental assessment to the State Department of Education prior to its submission of other documentation related to the proposed schoolsite acquisition or use. Within 10 calendar days of receipt of the Phase I environmental assessment and of the fee to be forwarded to the Department of Toxic Substances Control for its review of the Phase I environmental assessment, the State Department of Education shall transmit the Phase I environmental assessment to the Department of Toxic Substances Control for its review and approval, which shall be conducted by the Department of Toxic Substances Control within 30 calendar days of its receipt of the assessment and of sufficient information to allow the Department of Toxic Substances Control to confirm that the environmental assessor signing the assessment meets the qualifications set forth in subdivision (b) of Section 17210. In those instances in which the Department of Toxic Substances Control requests additional

information after receipt of the Phase I environmental assessment pursuant to paragraph (3), the Department of Toxic Substances Control shall conduct its review and approval within 30 days of its receipt of the requested additional information. If the Department of Toxic Substances Control concurs with the conclusion of the Phase I environmental assessment that a further investigation of the site is not required, the Department of Toxic Substances Control shall approve the Phase I environmental assessment and shall notify the State Department of Education and the governing board of the school district of the approval.

(3) If the Department of Toxic Substances Control determines that the Phase I environmental assessment is not complete or disapproves the Phase I environmental assessment, the department shall inform the school district of the decision, the basis for the decision, and actions necessary to secure department approval of the Phase I environmental assessment. The school district shall take actions necessary to secure the approval of the Phase I environmental assessment, elect to conduct a preliminary endangerment assessment, or elect not to pursue the acquisition or the construction project. To facilitate completion of the Phase I environmental assessment, the information required by this paragraph may be provided by telephonic or electronic means.

(4) If the Phase I environmental assessment concludes that a preliminary endangerment assessment is needed, or if the Department of Toxic Substances Control concludes after it reviews a Phase I environmental assessment pursuant to this section that a preliminary endangerment assessment is needed, the school district shall either contract with an environmental assessor to supervise the preparation of and sign a preliminary endangerment assessment of the proposed schoolsite and enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project. The agreement entered into with the Department of Toxic Substances Control may be entitled an ''Environmental Oversight Agreement'' and shall reference this paragraph. A school district may, with the concurrence of the Department of Toxic Substances Control, enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of a preliminary endangerment assessment without first having prepared a Phase I environmental assessment. Upon request from the school district, the Director of the Department of Toxic Substances Control shall exercise its authority to designate a person to enter the site and inspect and obtain samples pursuant to Section 25358.1 of the Health and Safety Code, if the director determines that the exercise of that authority will assist in expeditiously completing the preliminary endangerment assessment.

The preliminary endangerment assessment shall contain one of the following conclusions:

(A) A further investigation of the site is not required.

(B) A release of hazardous materials has occurred, and if so, the extent of the release, that there is the threat of a release of hazardous materials, or that a naturally occurring hazardous material is present, or any combination thereof.

(5) The school district shall submit a preliminary draft of the preliminary endangerment assessment to the Department of Toxic Substances Control for its review and approval and to the State Department of Education for its files. The school district may entitle a document that is meant to fulfill the requirements of a preliminary endangerment assessment a ''preliminary environmental assessment'' and that document shall be deemed to be a preliminary endangerment assessment if it specifically refers to the statutory provisions whose requirements it intends to meet and the document meets the requirements of a preliminary endangerment assessment.

(6) The Department of Toxic Substances Control shall complete its review within 60 calendar days of receipt of the preliminary endangerment assessment and shall either return the preliminary draft to the school district with comments and requested modifications or requested further assessment or approve the preliminary endangerment assessment as a final draft preliminary endangerment assessment. If the final draft preliminary endangerment assessment is approved and the school district proposes to proceed with site acquisition or a construction project, the school district shall make the final draft preliminary endangerment assessment available to the public on the same basis and at the same time it makes available the draft environmental impact report or negative declaration pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for the site, unless the document developed pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) will not be made available until more than 90 days after the final draft preliminary endangerment assessment is approved, in which case the school district shall, within 60 days of the approval of the final draft of the preliminary endangerment assessment, separately publish a notice of the availability of the final draft for public review in a local newspaper of general circulation. The school district shall hold a public hearing on the final draft preliminary endangerment assessment and the draft environmental impact report or negative declaration at the same time, pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). All comments pertaining to the final draft preliminary endangerment

assessment and the draft environmental impact report or negative declaration shall be forwarded to the Department of Toxic Substances Control immediately. If the district has complied with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) prior to initiating the preliminary endangerment assessment, the district shall reconsider the adequacy of its approved environmental impact report or negative declaration in light of the approved final draft of the preliminary endangerment assessment and determine whether a further environmental document is necessary. The district shall hold a public hearing on the final draft preliminary endangerment assessment and its determination on the adequacy of the existing environmental documents at the same time and in the same manner as it would for a draft environmental impact report or draft negative declaration as previously set forth in this section. The Department of Toxic Substances Control shall approve or disapprove the final preliminary endangerment assessment within 30 days of the district's approval action on the environmental document prepared under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall issue notice of its determination accompanied by a statement of the basis of the determination. The school district shall consider whether any changes between the final draft and final preliminary endangerment assessment require any change in its determination pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). The school district shall not file its notice of determination under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) until after the Department of Toxic Substances Control has approved the final preliminary endangerment assessment. The public participation process set forth in this section shall be used by the school district and the Department of Toxic Substances Control instead of procedures set forth in Sections 25358.7 and 25358.7.1 of the Health and Safety Code with respect to preliminary endangerment assessments. If further response actions beyond a preliminary endangerment assessment are required and the district determines that it will proceed with the acquisition or construction project, the district shall comply with the public participation requirements of Sections 25358.7 and 25358.7.1 of the Health and Safety Code and other applicable provisions of the state act with respect to those response actions.

(7) If the Department of Toxic Substances Control disapproves the final draft preliminary endangerment assessment, it shall inform the district of the decision, the basis for the decision, and actions necessary to secure the Department of Toxic Substances Control approval of the preliminary endangerment assessment. The school district shall take

actions necessary to secure the approval of the Department of Toxic Substances Control of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project.

(8) If the preliminary endangerment assessment determines that a further investigation of the site is not required and the Department of Toxic Substances Control approves this determination, it shall notify the State Department of Education and the school district of its approval. The school district may then proceed with the acquisition or construction project.

(9) If the preliminary endangerment assessment determines that a release of hazardous material has occurred, that there is the threat of a release of hazardous materials, that a naturally occurring hazardous material is present, or any combination thereof, that requires further investigation, and the Department of Toxic Substances Control approves this determination, the school district may elect not to pursue the acquisition or construction project. If the school district elects to pursue the acquisition or construction project, it shall do all of the following:

(A) Prepare a financial analysis that estimates the cost of response action that will be required at the proposed schoolsite.

(B) Assess the benefits that accrue from using the proposed schoolsite when compared to the use of alternative schoolsites, if any.

(C) Obtain the approval of the State Department of Education that the proposed schoolsite meets the schoolsite selection standards adopted by the State Department of Education pursuant to subdivision (b) of Section 17251.

(D) Evaluate the suitability of the proposed schoolsite in light of the recommended alternative schoolsite locations in order of merit if the school district has requested the assistance of the State Department of Education, based upon the standards of the State Department of Education, pursuant to subdivision (a) of Section 17251.

(10) The school district shall reimburse the Department of Toxic Substances Control for all of the department's response costs.

(b) The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13.

(c) A school district that releases a Phase I environmental assessment, a preliminary endangerment assessment, or information concerning either of these assessments, any of which is required by this section, may not be held liable in any action filed against the school district for making either of these assessments available for public review.

SEC. 5. Section 17213.2 of the Education Code is amended to read:

17213.2. As a condition of receiving state funds pursuant to Chapter 12.5 (commencing with Section 17070.10), all of the following apply:

(a) If a preliminary endangerment assessment prepared pursuant to Section 17213.1 discloses the presence of a hazardous materials release, or threatened release, or the presence of naturally occurring hazardous materials, at a proposed schoolsite at concentrations that could pose a significant risk to children or adults, and the school district owns the proposed schoolsite, the school district shall enter into an agreement with the Department of Toxic Substances Control to oversee response action at the site and shall take response action pursuant to the requirements of the state act as may be required by the Department of Toxic Substances Control.

(b) Notwithstanding subdivision (a), a school district need not take action in response to a release of hazardous material to groundwater underlying the schoolsite if the release occurred at a site other than the schoolsite and if the following conditions apply:

(1) The school district did not cause or contribute to the release of a hazardous material to the groundwater.

(2) Upon the request of the Department of Toxic Substances Control or its authorized representative the school district provides the Department of Toxic Substances Control or its authorized representative with access to the schoolsite.

(3) The school district does not interfere with the response action activities.

(c) If at anytime during the response action the school district determines that there has been a significant increase in the estimated cost of the response action, the school district shall notify the State Department of Education.

(d) A school district that is required by the Department of Toxic Substances Control to take response action at a proposed schoolsite is subject to both of the following prohibitions:

(1) The school district may not begin construction of a school building until the Department of Toxic Substances Control determines all of the following:

(A) That the construction will not interfere with the response action.

(B) That site conditions will not pose a significant threat to the health and safety of workers involved in the construction of the school building.

(C) That the nature and extent of any release or threatened release of hazardous materials or the presence of any naturally occurring hazardous materials have been fully characterized.

(2) The school district may not occupy a school building following construction until it obtains from the Department of Toxic Substances Control a certification that all response actions, except for operation and maintenance activities, necessary to ensure that hazardous materials at the schoolsite no longer pose a significant risk to children and adults at the schoolsite have been completed and that the response action

standards and objectives established in the final removal action work plan or remedial action plan have been met and are being maintained. After a school building is constructed and occupied, a school district may continue with ongoing operation and maintenance activities if the Department of Toxic Substances Control certifies before occupancy that neither site conditions nor the ongoing operation and maintenance activities pose a significant risk to children or adults at the schoolsite.

(e) If, at anytime during construction at a schoolsite, a previously unidentified release or threatened release of a hazardous material or the presence of a naturally occurring hazardous material is discovered, the school district shall cease all construction activities at the sites notify the Department of Toxic Substances Control, and take actions required by subdivision (a) that are necessary to address the release or threatened release or the presence of any naturally occurring hazardous materials. Construction may be resumed if the Department of Toxic Substances Control determines that the construction will not interfere with any response action necessary to address the hazardous material release or threatened release or the presence of a naturally occurring hazardous material, determines that the site conditions will not pose a significant threat to the health and safety of workers involved in the construction of the schoolsite, and certifies that the nature and extent of the release, threatened release, or presence of a naturally occurring hazardous material have been fully characterized.

(f) Construction may proceed at any portions of the site that the Department of Toxic Substances Control determines are not affected by the release or threatened release of hazardous materials, or presence of any naturally occurring hazardous materials, provided that all of the following apply:

(1) Those portions of the site have been fully characterized.

(2) The Department of Toxic Substances Control determines that the construction will not interfere with any response action necessary to address the release or threatened release of hazardous materials, or presence of any naturally occurring hazardous materials.

(3) The site conditions will not pose a significant threat to the health and safety of workers involved with construction.

(g) The Department of Toxic Substances Control shall notify the State Department of Education, the Division of the State Architect, and the Office of Public School Construction when the Department of Toxic Substances Control certifies that all necessary response actions have been completed at a schoolsite. The Department of Toxic Substances Control shall also notify the Division of the State Architect whenever a response action has an impact on the design of a school facility and shall specify the conditions that must be met in the design of the school facility in order to protect the integrity of the response action.

(h) The school district shall reimburse the Department of Toxic Substances Control for all response costs incurred by the department.

(i) The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13.

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.

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

In order to ensure that school districts receive state funding by complying with the Phase I environmental assessment requirement, it is necessary that this act take effect immediately.

CHAPTER 444

An act to add Section 1191.21 to the Penal Code, relating to victims.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 1191.21 is added to the Penal Code, to read:

1191.21. (a) (1) The Office of Criminal Justice Planning shall develop and make available a ''notification of eligibility'' card for victims and derivative victims of crimes as defined in subdivision (c) of Section 13960 of the Government Code that includes, but is not limited to, the following information:

''If you have been the victim of a crime that meets the required definition, you or others may be eligible to receive payment from the California State Restitution Fund for losses directly resulting from the crime. To learn about eligibility and receive an application to receive payments, call the Victims of Crime Program at (800) 777-9229 or call

your local county Victim Witness Assistance Center.''

(2) At a minimum, the Office of Criminal Justice Planning shall develop a template available for downloading on its Internet website the information requested in subdivision (b).

(b) In a case involving a crime as defined in subdivision (c) of Section 13960 of the Government Code, the law enforcement officer with primary responsibility for investigating the crime committed against the victim and the district attorney may provide the ''notification of eligibility'' card to the victim and derivative victim of a crime.

(c) The terms ''victim'' and ''derivative victim'' shall be given the same meaning given those terms in Section 13960 of the Government Code.

CHAPTER 445

An act to amend Sections 12301.3 and 12301.4 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 12301.3 of the Welfare and Institutions Code is amended to read:

12301.3. (a) Each county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals. No less 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 as recipients of services under this article.

(1) (A) In counties with fewer than 500 recipients of services provided pursuant to this article or Section 14132.95, at least one member of the advisory committee shall be a current or former provider of in-home supportive services.

(B) In counties with 500 or more recipients of services provided pursuant to this article or Section 14132.95, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

(2) Individuals who represent organizations that advocate for people with disabilities or seniors may be appointed to committees under this section.

(3) Individuals from community-based organizations that advocate on behalf of home care employees may be appointed to committees under this section.

(4) A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee, but may designate any county employee to provide ongoing advice and support to the advisory committee.

(b) Prior to the appointment of members to a committee required by subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

(c) The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(d) Any county that has established a governing body, as provided in subdivision (b) of Section 12301.6, prior to July 1, 2000, shall not be required to comply with the composition requirements of subdivision (a) and shall be deemed to be in compliance with this section.

SEC. 2. Section 12301.4 of the Welfare and Institutions Code is amended to read:

12301.4. (a) Each advisory committee established pursuant to Section 12301.3 or 12301.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.

(b) Each county shall be eligible to receive state reimbursements of administrative costs for only one advisory committee and shall comply with the requirements of subdivision (e) of Section 12302.25.

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 counties that are currently forming in-home supportive services advisory committees with clarification regarding the

composition of those committees, it is necessary that this act take effect immediately.

CHAPTER 446

An act to amend Section 97 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 97 of the Streets and Highways Code is amended to read:

97. (a) The department, in consultation with the Department of the California Highway Patrol, shall develop pilot projects in both northern and southern California. The portions of the highways involved in the projects shall be designated and identified as ''Safety Enhancement-Double Fine Zones'' and shall be in the following locations:

(1) On Route 37, between the intersection with Route 121 and the intersection with Route 29.

(2) On Route 4, between the intersection with the Cummings Skyway and the intersection with Route 80.

(3) On Route 74, at both of the following locations:

(A) Between the intersection with Route 5 and the intersection with the Riverside-Orange county line.

(B) Between the junction with Route 15 and the intersection with Seventh Street in the City of Perris.

(4) On Route 46, between the intersection with Route 101 and the junction with Route 41.

(5) On the Golden Gate Bridge.

(6) On Route 12, between the intersection with Walters Road in the City of Suisun and the intersection with Lower Sacramento Road in the City of Lodi.

(7) On Route 138, between the intersection with Avenue T and Pearblossom Highway and the intersection with Interstate Highway Route 15.

(8) On Route 101, between the intersection with Boronda Road and the intersection with the San Benito-Monterey county line.

(9) On Route 152, between the junction with Route 156 at the Don Pacheco ''Y'' and the intersection with Ferguson Road.

(10) On Route 2, between the city limits of La Canada Flintridge and the intersection with Route 39.

(b) (1) The department shall adopt rules and regulations prescribing uniform standards for warning signs to notify motorists that, pursuant to Section 42010 of the Vehicle Code, increased penalties apply for traffic violations that are committed within Safety Enhancement-Double Fine Zones. The rules and regulations adopted by the department shall include, but not be limited to, a requirement that Safety Enhancement-Double Fine Zones be identified with signs stating: ''Special Safety Zone Begins Here'' and ''Special Safety Zone Ends Here.''

(2) The department or local authorities, with respect to highways under their respective jurisdictions, shall place and maintain the warning signs specified in paragraph (1) in areas designated under subdivision (a).

(3) The department shall report to the Legislature on January 1, 2003, on the results of these pilot projects, including a determination of whether the projects were successful. In its report, the department shall update the January 1, 1998, report, and shall provide a detailed analysis on the impact of the pilot projects on highway safety, including, but not limited to, the number of accidents, traffic injuries, and fatalities in the project areas; and, in consultation with the Department of the California Highway Patrol, recommend specific criteria for designation of a highway as a Safety Enhancement-Double Fine Zone. A determination that the projects were successful shall be based upon a showing that a statistically significant decrease in the number of accidents, traffic injuries, and fatalities has occurred in the project areas.

(c) Designation of a highway as a Safety Enhancement-Double Fine Zone does not increase the civil liability of the state under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(d) (1) Only the base fine shall be enhanced pursuant to this section.

(2) Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.

(e) The pilot projects specified in subdivision (a) shall not be elevated in priority for state funding purposes.

(f) 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. 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 447

An act to amend Sections 116.760, 631.3, and 1141.28 of the Code of Civil Procedure, to amend Section 7895 of the Family Code, to amend Sections 68085, 70141, 72055, 77009, 77201.1, and 77212 of, and to add Section 811.9 to, the Government Code, to amend Section 1037 of the Penal Code, and to amend Section 100 of the Welfare and Institutions Code, relating to courts.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 116.760 of the Code of Civil Procedure is amended to read:

116.760. (a) The appealing party shall pay the same fees that are required for an appeal of a limited civil case.

(b) A party who does not appeal shall not be charged any fee for filing any document relating to the appeal.

SEC. 2. Section 631.3 of the Code of Civil Procedure is amended to read:

631.3. Notwithstanding any other provision of law, when a party to the litigation has deposited jury fees with the judge or clerk and that party waives a jury or obtains a continuance of the trial, or the case is settled, none of the deposit shall be refunded if the court finds there has been insufficient time to notify the jurors that the trial would not proceed at the time set. If the jury fees so deposited are not refunded for the reasons herein specified, or if a refund of jury fees deposited with the judge or clerk has not been requested, in writing, by the depositing party within 20 business days from the date on which the jury is waived or the action is settled, dismissed, or a continuance thereof granted, the fees shall be transmitted to the Controller for deposit into the Trial Court Trust Fund. All jury fees and mileage fees that may accrue by reason of a juror serving on more than one case in the same day shall be transmitted to the Controller for deposit into the Trial Court Trust Fund. All jury fees that

were deposited with the court in advance of trial pursuant to Section 631 prior to January 1, 1999, and which remain on deposit in cases that were settled, dismissed, or otherwise disposed of prior to January 1, 1998, shall be transmitted to the Controller for deposit into the Trial Court Trust Fund.

SEC. 3. Section 1141.28 of the Code of Civil Procedure is amended to read:

1141.28. (a) All administrative costs of arbitration, including compensation of arbitrators, shall be paid for by the court in which the arbitration costs are incurred, except as otherwise provided in subdivision (b) and in Section 1141.21.

(b) The actual costs of compensation of arbitrators in any proceeding which would not otherwise be subject to the provisions of this chapter but in which arbitration is conducted pursuant to this chapter solely because of the stipulation of the parties, shall be paid for in equal shares by the parties. If the imposition of these costs would create such a substantial economic hardship for any party as not to be in the interest of justice, as determined by the arbitrator, that party's share of costs shall be paid for by the court in which the arbitration costs are incurred. The determination as to substantial economic hardship may be reviewed by the court.

SEC. 4. Section 7895 of the Family Code is amended to read:

7895. (a) Upon appeal from a judgment freeing a child who is a dependent child of the juvenile court from parental custody and control, the appellate court shall appoint counsel for the appellant as provided by this section.

(b) Upon motion by the appellant and a finding that the appellant is unable to afford counsel, the appellate court shall appoint counsel for the indigent appellant, and appellant's counsel shall be provided a free copy of the reporter's and clerk's transcript. All of those costs are a charge against the state.

(c) The reporter's and clerk's transcripts shall be prepared and transmitted immediately after filing of the notice of appeal, at court expense and without advance payment of fees. If the appellant is able to afford counsel, the court may seek reimbursement from the appellant for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

SEC. 4.5. Section 811.9 is added to the Government Code, to read:

811.9. (a) Notwithstanding any other provision of law, judges, subordinate judicial officers, and court executive officers of the superior and municipal courts are state officers for purposes of Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive, and trial court employees are employees of the trial court

for purposes of Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive. The Judicial Council shall provide for representation, defense, and indemnification of such individuals and the court pursuant to Part 1 (commencing with Section 810) to Part 7 (commencing with Section 995), inclusive. The Judicial Council shall provide for such representation or defense through the county counsel, the Attorney General, or other counsel. The county counsel and the Attorney General may, but are not required to, provide such representation or defense for the Judicial Council. The fact that a judge, subordinate judicial officer, court executive officer, trial court employee, or the court was represented or defended by the county counsel, the Attorney General, or other counsel shall not be the sole basis for a judicial determination of disqualification of a judge, subordinate judicial officer, the county counsel, the Attorney General, or other counsel in unrelated actions.

(b) To promote the cost-effective, prompt, and fair resolution of actions, proceedings, and claims affecting the trial courts, the Judicial Council shall adopt rules of court requiring the Administrative Office of the Courts to manage actions, proceedings, and claims that affect the trial courts and involve superior or municipal courts, superior or municipal court judges, subordinate judicial officers, court executive officers, or trial court employees in consultation with the affected courts and individuals. The Administrative Office of the Courts' management of these actions, proceedings, and claims shall include, but not be limited to, case management and administrative responsibilities such as selection of counsel and making strategic and settlement decisions.

(c) Nothing in this section shall be construed to affect the employment status of subordinate judicial officers, court executive officers, and trial court employees related to any matters not covered by subdivision (a).

SEC. 5. Section 68085 of the Government Code, as amended by Chapter 15 of the Statutes of 2000, is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned at least quarterly for the purpose of funding trial court operations, as defined in Section 77003. In no event shall apportionment payments exceed 30 percent of the total annual apportionment to the Trial Court Trust Fund for state trial court funding in any 90-day period.

(2) The apportionment payments shall be made by the Controller. For fiscal year 1997–98, the Controller shall make the first apportionment payment within 10 days of the operative date of this section. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(3) If apportionment payments are made on a quarterly basis, the payments shall be on July 15, October 15, January 15, and April 15. In addition to quarterly payments, a final payment from the Trial Court Trust Fund for each fiscal year may be made on or before August 31 of the subsequent fiscal year.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted herefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected pursuant to Sections 631.3 and 116.230 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 27081.5, 68086, 72055, 72056, 72056.01, and 72060.

(2) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(3) Any amounts transmitted by a county to the Controller for deposit into the Trial Court Trust Fund from fees collected pursuant to Section 27361 between January 1, 1998, and the effective date of this paragraph shall be credited against the total amount the county is required to pay to the state pursuant to paragraph (2) of subdivision (b) of Section 77201 for the 1997–98 fiscal year.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 which is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency shall take action to change the amounts allocated to any of the above funds.

(g) Before making any apportionments under this section, the Controller shall deduct, from the annual appropriation for that purpose,

the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance which is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1^1/_2$ percent per month for the number of days the payment is delinquent. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse to a county's general fund pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(j) Penalty amounts calculated pursuant to subdivision (i) shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund semiannually and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council, based upon recommendations from the Trial Court Budget Commission.

(*l*) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible. Not later than February 1, 2001, the Judicial Council, in consultation with the California State Association of Counties and the California County Auditors Association, shall study and make recommendations to the Legislature on alternative procedures that would improve the collection and remittance of revenues to the Trial Court Trust Fund.

SEC. 6. Section 70141 of the Government Code is amended to read:

70141. (a) To assist the court in disposing of its business connected with the administration of justice, upon approval by the Judicial Council, the superior court of any city and county may appoint not exceeding 10 commissioners, and the superior court of every county, except a county with a population of 4,000,000 or over, may appoint one

commissioner. Each person so appointed shall be designated as ''court commissioner'' of the county.

(b) Until July 1, 1997, in addition to the court commissioners authorized by subdivision (a) or any other provision of law, either the superior court or the municipal court, but not both, of any county or city and county may appoint one additional commissioner, at the same rate of compensation as the other commissioner or commissioners for that court, upon adoption of a resolution by the board of supervisors pursuant to subdivision (c).

(c) The county or city and county shall be bound by, and the resolution adopted by the board of supervisors shall specifically recognize, the following conditions:

(1) The county or city and county has sufficient funds for the support of the position and any staff who will provide direct support to the position, agrees to assume any and all additional costs that may result therefrom, and agrees that no state funds shall be made available, or shall be used, in support of this position or any staff who provide direct support to this position.

(2) The additional commissioner shall not be deemed a judicial position for purposes of calculating trial court funding pursuant to Section 77202.

(3) The salary for this position and for any staff who provide direct support to this position shall not be considered as part of court operations for purposes of Sections 77003 and 77204.

(4) The county or city and county agrees not to seek funding from the state for payment of the salary, benefits, or other compensation for such a commissioner or for any staff who provide direct support to such a commissioner.

(d) The court may provide that the additional commissioner may perform all duties authorized for a commissioner of that court in the county. In a county or city and county that has undertaken a consolidation of the trial courts, the additional commissioner shall be appointed by the superior or municipal courts pursuant to the consolidation agreement.

(e) In addition to the court commissioners authorized by subdivisions (a) and (b), the superior court of any county or city and county shall appoint additional commissioners pursuant to Sections 4251 and 4252 of the Family Code. These commissioners shall receive a salary equal to 85 percent of a superior court judge's salary.

SEC. 7. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a limited civil case, shall be ninety dollars ($90), except that in cases where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars ($10,000) or less, the fee shall be eighty-three dollars ($83). The amount

of the demand shall be stated on the first page of the paper immediately below the caption.

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

The term ''total fee'' as used in this section and Section 72056 includes any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any automation fee imposed pursuant to Section 68090.7, any construction fee imposed pursuant to Section 76238, and the law library fee established pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code. The term ''total fee'' as used in this section and Section 72056 also includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions Code, but the board of supervisors of each county may exclude any portion of this dispute resolution fee from the term ''total fee.''

The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 8. Section 77009 of the Government Code is amended to read:

77009. (a) For the purposes of funding trial court operations, each board of supervisors shall establish in the county treasury a Trial Court Operations Fund, which will operate as an agency fund. All funds appropriated in the Budget Act and allocated and reallocated to each court in the county by the Judicial Council shall be deposited into the fund. Accounts shall be established in the Trial Court Operations Fund for each trial court in the county, except that one account may be established for courts which have a unified budget. In a county where court budgets include appropriations for expenditures administered on a countywide basis, including, but not limited to, court security, centralized data-processing and planning and research services, an account for each centralized service shall be established and funded from those appropriations.

(b) The moneys of the Trial Court Operations Fund arising from deposits of funds appropriated in the Budget Act and allocated or reallocated to each court in the county by the Judicial Council shall be payable only for the purposes set forth in Sections 77003 and 77006.5, and for services purchased by the court pursuant to subdivisions (b) and

(c) of Section 77212. The presiding judge of each court in a county, or his or her designee, shall authorize and direct expenditures from the fund and the county auditor-controller shall make payments from the funds as directed. Approval of the board of supervisors is not required for expenditure from this fund.

(c) All funds received by a trial court from any source shall be deposited in the trial court operations fund, except as provided in this section. Funds that are received to fulfill the requirements of Article 4 (commencing with Section 4250) of Chapter 2 of Part 2 of Division 9 and Division 14 (commencing with Section 10000) of the Family Code shall be identified and maintained in a separate account established in the fund for this purpose. All other funds that are received for purposes other than court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court, shall be identified and maintained in one or more separate accounts established in the fund pursuant to procedures adopted by the Judicial Council. This subdivision shall only apply to funds received by the courts for operating and program purposes. This subdivision shall not apply to either of the following:

(1) Funds received by the courts pursuant to Section 68084, if those funds are not for operating or program use.

(2) Payments from a party or a defendant received by a trial court or the county for any fees, fines, or forfeitures.

(d) Interest received by a county which is attributable to investment of money required by this section to be deposited in its Trial Court Operations Fund shall be deposited in the fund and shall be used for trial court operations purposes.

(e) In no event shall interest be charged to the Trial Court Operations Fund, except as provided in Section 77009.1.

(f) Reasonable administrative expenses incurred by the county associated with the operation of this fund shall be charged to each court on a pro rata basis in proportion to the total amount allocated to each court in this fund.

(g) A county, or city and county, may bill trial courts within its jurisdiction for costs for services provided by the county, or city and county, as described in Sections 77003 and 77212, including indirect costs as described in paragraph (7) of subdivision (a) of Section 77003 and Section 77212. The costs billed by the county, or the city and the county, pursuant to this subdivision shall not exceed the costs incurred by the county, or the city and the county, of providing similar services to county departments or special districts.

(h) Pursuant to Section 77206, the Controller, at the request of the Legislature or the Judicial Council, may perform financial and fiscal compliance audits of this fund.

(i) The Judicial Council with the concurrence of the Department of Finance and the Controller's office shall establish procedures to implement the provisions of this section and to provide for payment of trial court operations expenses, as described in Sections 77003 and 77006.5, incurred on July 1, 1997, and thereafter.

(j) The Judicial Council shall study alternative methods for the establishment and management of the Trial Court Operations Fund as provided in this section, and shall report its findings and recommendations to the Legislature not later than November 1, 1998.

SEC. 9. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, and each year thereafter, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	–
Amador	–
Butte	–
Calaveras	–
Colusa	–
Contra Costa	11,974,535
Del Norte	–
El Dorado	–
Fresno	11,222,780
Glenn	–
Humboldt	–
Imperial	–
Inyo	–
Kern	9,234,511
Kings	–
Lake	–

Lassen	–
Los Angeles	175,330,647
Madera	–
Marin	–
Mariposa	–
Mendocino	–
Merced	–
Modoc	–
Mono	–
Monterey	4,520,911
Napa	–
Nevada	–
Orange	38,846,003
Placer	–
Plumas	–
Riverside	17,857,241
Sacramento	20,733,264
San Benito	–
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	–
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	–
Shasta	–
Sierra	–
Siskiyou	–
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	–
Tehama	–
Trinity	–
Tulare	–
Tuolumne	–
Ventura	9,734,190

Yolo	–
Yuba	–

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,168,194
Del Norte	553,730
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810

Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,511,193
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1)

of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 9.2. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, and each year thereafter, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	–
Amador	–
Butte	–
Calaveras	–
Colusa	–
Contra Costa	11,974,535
Del Norte	–
El Dorado	–
Fresno	11,222,780
Glenn	–
Humboldt	–
Imperial	–
Inyo	–
Kern	9,234,511
Kings	–
Lake	–
Lassen	–
Los Angeles	175,330,647
Madera	–

Marin	–
Mariposa	–
Mendocino	–
Merced	–
Modoc	–
Mono	–
Monterey	4,520,911
Napa	–
Nevada	–
Orange	38,846,003
Placer	–
Plumas	–
Riverside	17,857,241
Sacramento	20,733,264
San Benito	–
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	–
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	–
Shasta	–
Sierra	–
Siskiyou	–
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	–
Tehama	–
Trinity	–
Tulare	–
Tuolumne	–
Ventura	9,734,190
Yolo	–
Yuba	–

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is

based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,168,194
Del Norte	553,730
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324

San Bernardino	8,071,934
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this

subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 9.4. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, and each year thereafter, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	–
Amador	–
Butte	–
Calaveras	–
Colusa	–
Contra Costa	11,974,535
Del Norte	–
El Dorado	–
Fresno	11,222,780
Glenn	–
Humboldt	–
Imperial	–
Inyo	–
Kern	9,234,511
Kings	–
Lake	–
Lassen	–
Los Angeles	175,330,647
Madera	–
Marin	–
Mariposa	–
Mendocino	–
Merced	–
Modoc	–
Mono	–

Monterey	4,520,911
Napa	–
Nevada	–
Orange	38,846,003
Placer	–
Plumas	–
Riverside	17,857,241
Sacramento	20,733,264
San Benito	–
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	–
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	–
Shasta	–
Sierra	–
Siskiyou	–
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	–
Tehama	–
Trinity	–
Tulare	–
Tuolumne	–
Ventura	9,734,190
Yolo	–
Yuba	–

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,168,194
Del Norte	124,085
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,511,193
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835

San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 9.6. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, and each year thereafter, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	–
Amador	–
Butte	–
Calaveras	–
Colusa	–
Contra Costa	11,974,535
Del Norte	–
El Dorado	–
Fresno	11,222,780
Glenn	–
Humboldt	–
Imperial	–
Inyo	–
Kern	9,234,511
Kings	–
Lake	–
Lassen	–
Los Angeles	175,330,647
Madera	–
Marin	–
Mariposa	–
Mendocino	–
Merced	–
Modoc	–
Mono	–
Monterey	4,520,911
Napa	–

Nevada	–
Orange	38,846,003
Placer	–
Plumas	–
Riverside	17,857,241
Sacramento	20,733,264
San Benito	–
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	–
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	–
Shasta	–
Sierra	–
Siskiyou	–
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	–
Tehama	–
Trinity	–
Tulare	–
Tuolumne	–
Ventura	9,734,190
Yolo	–
Yuba	–

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757

Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,168,194
Del Norte	124,085
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,071,934
San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610

Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not

limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 10. Section 77212 of the Government Code is amended to read:

77212. (a) The State of California, the counties of California, and the trial courts of California, recognize that a unique and interdependent relationship has evolved between the courts and the counties over a sustained period of time. While it is the intent of this act to transfer all fiscal responsibility for the support of the trial courts from the counties to the State of California, it is imperative that the activities of the state,

the counties, and the trial courts be maintained in a manner that ensures that services to the people of California not be disrupted. Therefore, to this end, during the 1997–98 fiscal year, commencing on July 1, 1997, counties shall continue to provide and courts shall continue to use, county services provided to the trial courts on July 1, 1997, including, but not limited to: auditor/controller services, coordination of telephone services, data-processing and information technology services, procurement, human resources services, affirmative action services, treasurer/tax collector services, county counsel services, facilities management, and legal representation. These services shall be provided to the court at a rate that shall not exceed the costs of providing similar services to county departments or special districts. If the cost was not included in the county base pursuant to paragraph (1) of subdivision (b) of Section 77201 or was not otherwise charged to the court prior to July 1, 1997, and were court operation costs as defined in Section 77003 in fiscal year 1994–95, the court may seek adjustment of the amount the county is required to submit to the state pursuant Section 77201.

(b) In fiscal year 1998–99 commencing on July 1, 1998, and thereafter the county may give notice to the court that the county will no longer provide a specific service except that the county shall cooperate with the court to ensure that a vital service for the court shall be available from the county or other entities that provide such services. The notice must be given at least 90 days prior to the end of the fiscal year and shall be effective only upon the first day of the succeeding fiscal year.

(c) In fiscal year 1998–99, commencing on July 1, 1998, and thereafter, the court may give notice to the county that the court will no longer use a specific county service. The notice shall be given at least 90 days prior to the end of the fiscal year and shall be effective only upon the first day of the succeeding fiscal year. However, for three years from the effective date of this section, a court shall not terminate a service that involved the acquisition of equipment, including, but not limited to, computer and data processing systems, financed by a long-term financing plan whereby the county is dependent upon the court's continued financial support for a portion of the cost of the acquisition.

(d) (1) If a trial court desires to receive or continue to receive a specific service from a county or city and county as provided in subdivision (c), and the county or city and county desires to provide or continue to provide that service as provided in subdivision (b), the presiding judge of that court and the county or city and county shall enter into a contract for that service. The contract shall identify the scope of service, method of service delivery, term of agreement, anticipated service outcomes, and the cost of the service. The court and the county or city and county shall cooperate in developing and implementing the contract.

(2) This subdivision applies to services to be provided in fiscal year 1999–2000 and thereafter.

SEC. 11. Section 1037 of the Penal Code is amended to read:

1037. (a) When a court orders a change of venue to a court in another county all costs incurred by that court or county, which are not payable pursuant to Section 4750, for the transfer, preparation and trial of the action, the guarding, keeping and transportation of the prisoner, any appeal or other proceeding relating to the action and execution of the sentence shall be a charge against the court or the county in which the action originated. For the purposes of this section, costs that are included in the definition of court operations as defined in Section 77003 of the Government Code and Rule 810 of the California Rules of Court shall be considered court costs and are a charge against the court in the county in which the action originated. All other costs shall be considered county costs and are a charge against the county in which the action originated.

(b) Claims for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the county in which the action originated. The treasurer shall pay the amount of county costs out of the general funds of the county. The presiding judge of the court, or his or her designee, shall authorize, and the treasurer shall pay, the amount of court costs out of the local trial court operations fund as directed by the court. Payments for claims for court costs shall be deposited into the local trial court operations fund established pursuant to Section 77009 of the Government Code.

(c) The term ''all costs'' means all reasonable and necessary costs incurred by the county or court as a result of the change of venue which would not have been incurred but for the change, and does not include normal salaries, overhead, and other expenses which would have been incurred by the county or court in any event.

(d) The trial court may, in its sound discretion, approve any cost as reasonable and necessary under this section. Prior to the trial court's issuing any order approving such a cost, the clerk shall give 10 days' written notice of the court's intention to issue an order to the auditor of the county in which the action originated. The auditor may appear for the limited purpose of opposing the issuance of the order. If he or she fails to appear, the county of origin may not in any other proceeding contest the imposition of these costs.

SEC. 12. Section 100 of the Welfare and Institutions Code is amended to read:

100. The Judicial Council shall establish a planning and advisory group consisting of appropriate professional and program specialists to recommend on the development of program guidelines and funding procedures consistent with this chapter. At a minimum, the council shall adopt program guidelines consistent with the guidelines established by

the National Court Appointed Special Advocate Association, and with California law; but the council may require additional or more stringent standards. State funding shall be contingent on a program adopting and adhering to the program guidelines adopted by the council.

The program guidelines adopted by the council shall be adopted and incorporated into local rules of court by each participating superior court as a prerequisite to funding pursuant to this chapter.

The council shall adopt program guidelines and criteria for funding which encourage multicounty CASA programs where appropriate, and shall in no case provide for funding more than one program per county.

The council shall establish in a timely fashion a request-for-proposal process to establish, maintain, or expand local CASA programs and require local matching funds or in-kind funds equal to the proposal request. The maximum state grant per county program per year shall not exceed thirty-five thousand dollars ($35,000) in counties in which the population is less than 700,000 and shall not exceed fifty thousand dollars ($50,000) in counties in which the population is 700,000 or more, according to the annual population report provided by the Department of Finance.

SEC. 13. Section 9.2 of this bill incorporates amendments to Section 77201.1 of the Government Code proposed by both this bill and AB 2402. If both bills are enacted and amend Section 77201.1 of the Government Code, and SB 815 is not enacted amending Section 77201.1 of the Government Code, Section 77201.1 as amended by AB 2402 shall remain in effect only until the operative date of this bill, at which time Section 9.2 of this bill shall become operative and Sections 9, 9.4, and 9.6 of this bill shall not become operative.

SEC. 14. Section 9.4 of this bill incorporates amendments to Section 77201.1 of the Government Code proposed by both this bill and SB 815. If both bills are enacted and amend Section 77201.1 of the Government Code, and AB 2402 is not enacted amending Section 77201.1 of the Government Code, Section 77201.1 as amended by SB 815 shall remain in effect only until the operative date of this bill, at which time Section 9.4 of this bill shall become operative and Sections 9, 9.2, and 9.6 of this bill shall not become operative.

SEC. 15. Section 9.6 of this bill incorporates amendments to Section 77201.1 of the Government Code proposed by this bill, AB 2402, and SB 815. If all three bills are enacted and amend Section 77201.1 of the Government Code, Section 77201.1 as amended by AB 2402 and SB 815 shall remain in effect only until the operative date of this bill, at which time Section 9.6 of this bill shall become operative and Sections 9, 9.2, and 9.4 of this bill shall not become operative.

SEC. 16. The Legislature hereby declares that Section 4.5 of this act shall not be interpreted as applicable to, nor legislative preference of, an

employment status for trial court employees. The Legislature recognizes that pursuant to Chapter 850 of the Statutes of 1997, the Task Force on Trial Court Employees will make recommendations to the Legislature regarding an appropriate system of employment and governance for trial court employees. The recommendations of the Task Force on Trial Court Employees shall take effect only upon subsequent action of the Legislature.

SEC. 17. 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 448

An act to amend Section 1418.4 of the Health and Safety Code, relating to long-term care facilities.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 1418.4 of the Health and Safety Code is amended to read:

1418.4. (a) No licensed skilled nursing facility or intermediate care facility may prohibit the formation of a family council, and, when requested by a member of the resident's family or the resident's representative, the family council shall be allowed to meet in a common meeting room of the facility at least once a month during mutually agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents, family members, and family council members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) ''Family council'' for the purpose of this section means a meeting of family members, friends, or representatives of two or more residents to confer in private without facility staff.

(d) Family councils shall also be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, newsletters, or other information pertaining to the operation or interest of the family council.

(e) Staff or visitors may attend family council meetings, at the group's invitation.

(f) The facility shall provide a designated staff person who shall be responsible for providing assistance and responding to written requests that result from family council meetings.

(g) The facility shall consider the views and act upon the grievances and recommendations of a family council concerning proposed policy and operational decisions affecting resident care and life in the facility.

(h) The facility shall respond in writing to written requests or concerns of the family council, within 10 working days.

(i) When a family council exists, the facility shall include notice of the family council meetings in at least a quarterly mailing, and shall inform family members or representatives of new residents who are identified on the admissions agreement, during the admissions process, or in the resident's records, of the existence of the family council. The notice shall include the time, place, and date of meetings, and the person to contact regarding involvement in the family council.

(j) No facility shall willfully interfere with the formation, maintenance, or promotion of a family council. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, or the willful scheduling of facility events in conflict with a previously scheduled family council meeting.

(k) (1) Violation of the provisions of this section shall constitute a violation of the residents' rights.

(2) Violation of the provisions of this section shall constitute a class ''B'' violation, as defined in Section 1424.

CHAPTER 449

An act to add Section 14673.6 to the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 14673.6 is added to the Government Code, to read:

14673.6. The Director of General Services may transfer and convey, without charge or consideration, to the City of Salinas, all rights, title, and interests, including any equitable interest, held by the state in the real property situated at 342 Front Street, Salinas, California. The Legislature hereby finds that it has deemed the subject property, formerly used as an Employment Development Department office, as surplus and that the city has received a transfer of property interests from the United States for any interest held by the United States Department of Labor in that property.

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

In order that the Director of General Services may transfer and convey certain state property, without charge or consideration, at the earliest possible time, it is necessary for this act to go into immediate effect.

CHAPTER 450

An act to amend Section 317 of, to repeal Section 326 of, and to add Section 326.5 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

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

SECTION 1. Section 317 of the Welfare and Institutions Code is amended to read:

317. (a) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel, unless the court finds

that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c) Where a child is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding. A primary responsibility of any counsel appointed to represent a child pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the child's. The fact that the district attorney represents the child in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that assures adequate representation of the child. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

(d) The counsel appointed by the court shall represent the parent, guardian, or child at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or child unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.

(e) The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her

knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. The attorney representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker and is not expected to provide nonlegal services to the child. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(f) Either the child or the counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege; and if the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel for a child shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner as defined in Section 11165.8 of the Penal Code or a child care custodian, as defined in Section 11165.7 of the Penal Code. Notwithstanding any other law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

(g) In a county of the third class, if counsel is to be provided to a child at county expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

(h) In a county of the third class, if counsel is to be appointed for a parent or guardian at county expense, the court shall first utilize the services of the alternate public defender, prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in

any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

SEC. 2. Section 326 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 326.5 is added to the Welfare and Institutions Code, to read:

326.5. The Judicial Council shall adopt a rule of court effective July 1, 2001, that complies with the requirement of the federal Child Abuse Prevention and Treatment Act (Public Law 93-247) for the appointment of a guardian ad litem, who may be an attorney or a court-appointed special advocate, for a child in cases in which a petition is filed based upon neglect or abuse of the child or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child. The rule of court may include guidelines to the courts for determining when an attorney should be appointed rather than a court appointed special advocate, and caseload standards for guardians ad litem.

SEC. 4. Section 2 of this act shall become operative on July 1, 2001.

CHAPTER 451

An act to amend Sections 1250, 1253, 1265, 1267, 1267.5, 1294, 1298, 1331, 1333, 1336.2, 1337.1, 1337.3, 1417.2, 1417.3, 1417.4, 1420, 1421.1, 1421.2, 1422, 1422.5, 1424, 1428, 1428.1, 1438, and 1599.1 of, to add Sections 1276.7, 1325.5, 1417.15, 1418.91, 1422.6, 1423.5, 1424.5, 1429.1, and 1437.5 to, and to repeal Sections 1430.5, 1435, and 1435.5 of, the Health and Safety Code, to amend Section 14124.7 of, and to add Section 14126.02 to, the Welfare and Institutions Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

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

SECTION 1. (a) (1) It is the intent of the Legislature that this act add to the quality of life of older Californians by enhancing the quality of long-term care services. The primary goal of this effort is to enable citizens with long-term care needs to live at home, with family members, and in the community for as long as possible.

(2) Therefore, it is the intent of this act to increase access to quality alternatives to nursing home facilities by providing improved in-home support services and community-based care services.

(b) (1) It is also the intent of this act to ensure that nursing home facilities in California provide safe and secure environments for residents and their families and that they have the highest quality of care possible.

(2) Therefore, it is the intent of this act to reform nursing home standards, strengthen enforcement of those standards, and promote residents' and family rights.

SEC. 2. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, ''health facility'' means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) ''General acute care hospital'' means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

A ''general acute care hospital'' includes a ''rural general acute care hospital''. However, a ''rural general acute care hospital'' shall not be required by the department to provide surgery and anesthesia services. A ''rural general acute care hospital'' shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) ''Acute psychiatric hospital'' means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) ''Skilled nursing facility'' means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) ''Intermediate care facility'' means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) ''Intermediate care facility/developmentally disabled habilitative'' means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) ''Special hospital'' means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) ''Intermediate care facility/developmentally disabled'' means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) ''Intermediate care facility/developmentally disabled—nursing'' means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental

disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) ''Congregate living health facility'' means a residential home with a capacity, except as provided in paragraph (4), of no more than six beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, physically disabled persons, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A ''life-threatening illness'' means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A catastrophically and severely disabled person means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a catastrophically disabled person shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons may have not more than 25 beds for the purpose of serving terminally ill persons.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county

of 500,000 or more persons may have not more than 12 beds for the purpose of serving catastrophically and severely disabled persons.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) ''Correctional treatment center'' means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the California Department of Corrections from obtaining a correctional treatment center license at these sites.

(k) ''Nursing facility'' means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled health facility in the federal Medicare program under Title XVIII of the federal Social Security Act or as a nursing facility in the federal medicaid program under Title XIX of the federal Social Security Act, or as both.

(*l*) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections, or the Department of the Youth Authority,

shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

SEC. 3. Section 1253 of the Health and Safety Code is amended to read:

1253. (a) No person, firm, partnership, association, corporation, or political subdivision of the state, or other governmental agency within the state shall operate, establish, manage, conduct, or maintain a health facility in this state, without first obtaining a license therefor as provided in this chapter, nor provide, after July 1, 1974, special services without approval of the state department. However, any health facility offering any special service on the effective date of this section shall be approved by the state department to continue those services until the state department evaluates the quality of those services and takes permitted action.

(b) This section shall not apply to a receiver appointed by the court to temporarily operate a long-term health care facility pursuant to Article 8 (commencing with Section 1325).

SEC. 4. Section 1265 of the Health and Safety Code is amended to read:

1265. Any person, political subdivision of the state, or governmental agency desiring a license for a health facility, approval for a special service under this chapter, or approval to manage a health facility currently licensed as a skilled nursing facility or intermediate care facility, as defined in subdivision (c) or (d) of Section 1250, that has not filed an application for a license to operate that facility shall file with the state department a verified application on forms prescribed and furnished by the state department, containing all of the following:

(a) The name of the applicant and, if an individual, whether the applicant has attained the age of 18 years.

(b) The type of facility or health facility.

(c) The location thereof.

(d) The name of the person in charge thereof.

(e) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the health facility for which application for license is made. If the applicant is a political subdivision of the state or other governmental agency, like evidence shall be submitted as to the person in charge of the health facility for which application for license is made.

(f) Evidence satisfactory to the state department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter by the state department.

(g) Evidence satisfactory to the department that the applicant to operate a skilled nursing facility or intermediate care facility possesses financial resources sufficient to operate the facility for a period of at least 45 days.

(h) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department evidence of the right to possession of the facility at the time the application will be granted, that may be satisfied by the submission of a copy of applicable portions of a lease agreement or deed of trust. The names and addresses of any persons or organizations listed as owner of record in the real estate, including the buildings and the grounds appurtenant to the buildings, shall be disclosed to the state department.

(i) Any other information as may be required by the state department for the proper administration and enforcement of this chapter.

(j) Upon submission of an application to the state department by an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing, the application shall include a statement of need signed by the chairperson of the area board pursuant to Chapter 4 (commencing with Section 4570) of Division 4.5 of the Welfare and Institutions Code. In the event the area board has not provided the statement of need within 30 days of receipt of the request from the applicant, the state department may process the application for license without the statement.

(k) The information required pursuant to this section, other than individuals' social security numbers, shall be made available to the public upon request, and shall be included in the department's public file regarding the facility.

SEC. 5. Section 1267 of the Health and Safety Code is amended to read:

1267. (a) (1) Each license issued pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expiration date of the license. Application for renewal of a license or special permit accompanied by the necessary fee shall be filed with the state department not less than 30 days prior to the expiration date. Failure to make a timely renewal shall result in expiration of the license or special permit.

(2) Notwithstanding paragraph (1), the license of a facility operated by a receiver appointed pursuant to Article 8 (commencing with Section 1325) shall not expire during the period of the receivership, and for 30 days thereafter.

(b) A renewal license or special permit may be issued for a period not to exceed two years if the holder of the license or special permit has been found in substantial compliance with any statutory requirements, regulations, or standards during the preceding license period. However, for a health facility specified in subdivision (a) or (b) of Section 1250, a renewal license or special permit may be issued for a period not to exceed three years, if the holder of the license or special permit has been found in substantial compliance with statutory requirements, regulations, or standards during the preceding license period.

(c) Notwithstanding the length of the period for which a renewal license is issued, a license fee shall be due and payable annually.

SEC. 6. Section 1267.5 of the Health and Safety Code is amended to read:

1267.5. (a) (1) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department the name and business address of each general partner if the applicant is a partnership, or each director and officer if the applicant is a corporation, and each person having a beneficial ownership interest of 5 percent or more in the applicant corporation or partnership.

(2) If any person described in paragraph (1) has served or currently serves as an administrator, general partner, trustee or trust applicant, sole proprietor of any applicant or licensee who is a sole proprietorship, executor, or corporate officer or director of, or has held a beneficial ownership interest of 5 percent or more in, any other skilled nursing facility or intermediate care facility or in any community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of this division, the applicant shall disclose the relationship to the state department, including the name and current or last address of the health facility or community care facility and the date the relationship commenced and, if applicable, the date it was terminated.

(3) (A) If the facility is operated by, or proposed to be operated in whole or part under, a management contract, the names and addresses of any person or organization, or both, having an ownership or control interest of 5 percent or more in the management company shall be disclosed to the state department. This provision shall not apply if the management company has submitted an application for licensure with the state department and has complied with paragraph (1).

(B) If the management company is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the management company and the names and addresses of any officer or director of the parent organizations. The failure to comply with this subparagraph may result in action to revoke or deny a license. However, once the information that is required under

this subparagraph is provided, the action to revoke the license shall terminate.

(4) If the applicant or licensee is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the subsidiary and the names and addresses of any officer or director of the parent organizations.

(5) The information required by this subdivision shall be provided to the state department upon initial application for licensure, and any change in the information shall be provided to the state department within 30 calendar days of that change.

(6) Except as provided in subparagraph (B) of paragraph (3), the failure to comply with this section may result in action to revoke or deny a license.

(7) The information required by this section shall be made available to the public upon request, shall be included in the public file of the facility, and shall be included in the department's automated certification licensing administration information management system.

(b) On and after January 1, 1990, no person may acquire a beneficial interest of 5 percent or more in any corporation or partnership licensed to operate a skilled nursing facility or intermediate care facility, or in any management company under contract with a licensee of a skilled nursing facility or intermediate care facility, nor may any person become an officer or director of, or general partner in, a corporation, partnership, or management company of this type without the prior written approval of the state department. Each application for departmental approval pursuant to this subdivision shall include the information specified in subdivision (a) as regards the person for whom the application is made.

The state department shall approve or disapprove the application within 30 days after receipt thereof, unless the state department, with just cause, extends the application review period beyond 30 days.

(c) The state department may deny approval of a license application or of an application for approval under subdivision (b) if a person named in the application, as required by this section, was an officer, director, general partner, or owner of a 5-percent or greater beneficial interest in a licensee of, or in a management company under contract with a licensee of, a skilled nursing facility, intermediate care facility, community care facility, or residential care facility for the elderly at a time when one or more violations of law were committed therein that resulted in suspension or revocation of its license, or at a time when a court-ordered receiver was appointed pursuant to Section 1327, or at a time when a final Medi-Cal decertification action was taken under federal law. However, the prior suspension, revocation, or court-ordered receivership of a license shall not be grounds for denial of the application if the applicant shows to the satisfaction of the state department (1) that

the person in question took every reasonably available action to prevent the violation or violations that resulted in the disciplinary action and (2) that he or she took every reasonably available action to correct the violation or violations once he or she knew, or with the exercise of reasonable diligence should have known of, the violation or violations.

(d) No application shall be denied pursuant to this section until the state department first (1) provides the applicant with notice in writing of grounds for the proposed denial of application, and (2) affords the applicant an opportunity to submit additional documentary evidence in opposition to the proposed denial.

(e) Nothing in this section shall cause any individual to be personally liable for any civil penalty assessed pursuant to Chapter 2.4 (commencing with Section 1417) or create any new criminal or civil liability contrary to general laws limiting that liability.

(f) This section shall not apply to a bank, trust company, financial institution, title insurer, controlled escrow company, or underwritten title company to which a license is issued in a fiduciary capacity.

(g) As used in this section, ''person'' has the same meaning as specified in Section 19.

(h) This section shall not apply to the directors of a nonprofit corporation exempt from taxation under Section 23701d of the Revenue and Taxation Code that operates a skilled nursing facility or intermediate care facility in conjunction with a licensed residential facility, where the directors serve without financial compensation and are not compensated by the nonprofit corporation in any other capacity.

SEC. 7. Section 1276.7 is added to the Health and Safety Code, to read:

1276.7. (a) (1) On or before May 1, 2001, the department shall determine the need, and provide subsequent recommendations, for any increase in the minimum number of nursing hours per patient day in skilled nursing facilities. The department shall analyze the relationship between staffing levels and quality of care in skilled nursing facilities. The analysis shall include, but not be limited to, all of the following:

(A) A determination of average staffing levels in this state.

(B) A review of facility expenditures on nursing staff, including salary, wages, and benefits.

(C) A review of other states' staffing requirements as relevant to this state.

(D) A review of available research and reports on the issue of staffing levels and quality of care.

(E) The number of Medi-Cal beds in a facility.

(F) The corporate status of the facility.

(G) Information on compliance with both state and federal standards.

(H) Work force availability trends.

(2) The department shall prepare a report on its analysis and recommendations and submit this report to the Legislature, including its recommendations for any staffing increases and proposed timeframes and costs for implementing any increase.

(b) It is the intent of the Legislature to establish sufficient staffing levels required to provide quality skilled nursing care. It is further the intent of the Legislature to increase the minimum number of direct care nursing hours per patient day in skilled nursing facilities to 3.5 hours by 2004 or to whatever staffing levels the department determines are required to provide California nursing home residents with a safe environment and quality skilled nursing care.

SEC. 7.5. Section 1294 of the Health and Safety Code is amended to read:

1294. The state department may suspend or revoke any license or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Violation by a facility certified as a skilled nursing facility under Title XVIII of the Social Security Act or as a nursing facility under Title XIX of the Social Security Act, or as both, of any federal statutes or regulations applicable to its operation.

(c) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(d) Conduct inimical to the public health, morals, welfare, or safety of the people of the State of California in the maintenance and operation of the premises or services for which a license or special permit is issued.

(e) The conviction of a licensee, or other person mentioned in subdivision (b) of Section 1265.1, at any time during licensure, of a crime as defined in Section 1265.2.

SEC. 8. Section 1298 of the Health and Safety Code is amended to read:

1298. (a) (1) No person, firm, partnership, association, corporation, political subdivision of the state, or other governmental agency within the state shall continue to operate, conduct, or maintain an existing health facility without having applied for and obtained a license or a special permit as provided for in this chapter.

(2) This subdivision shall not apply to a receiver appointed by the court to temporarily operate a long-term health care facility pursuant to Article 8 (commencing with Section 1325).

(b) Any license or special permit revoked pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

SEC. 9. Section 1325.5 is added to the Health and Safety Code, to read:

1325.5. (a) It is the intent of the Legislature in enacting this section to empower the state department to take quick, effective action to protect the health and safety of residents of long-term health care facilities and to minimize the effects of transfer trauma that accompany the abrupt transfer of elderly and disabled residents.

(b) For purposes of this section, ''temporary manager'' means the person appointed temporarily by the state department as a substitute facility manager or administrator with authority to hire, terminate, or reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation.

(c) The director may appoint a temporary manager when any of the following circumstances exist:

(1) The residents of the long-term health care facility are in immediate danger of death or permanent injury by virtue of the failure of the facility to comply with federal or state requirements applicable to the operation of the facility.

(2) As a result of the change in the status of the license or operation of a long-term health care facility, the facility is required to comply with Section 1336.2, the facility fails to comply with Section 1336.2, and the state department has determined that the facility is unwilling or unable to meet the requirements of Section 1336.2.

(d) Upon appointment, the temporary manager shall take all necessary steps and make best efforts to eliminate immediate danger of death or permanent injury to resident so complete transfer of residents to alternative placements pursuant to Section 1336.2.

(e) The appointment of a temporary manager shall become effective immediately and shall authorize the temporary manager to act pursuant to this section. The state department shall provide the licensee and administrator with a statement of allegations at the time of appointment. Within 48 hours, the department shall provide the licensee and the administrator with a formal statement of cause and concerns. The statement of cause and concerns shall specify the factual and legal basis for the imposition of the temporary manager and shall be supported by the declaration of the director or the director's authorized designee. The statement of cause and concerns shall notify the licensee of the licensee's right to petition the Office of Administrative Hearings for a hearing to contest the appointment of the temporary manager and shall provide the licensee with a form and appropriate information for the licensee's use in requesting a hearing.

(f) (1) The licensee of a long-term health care facility may contest the appointment of the temporary manager at any time by filing a petition

for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings. On the same day as the petition is filed with the Office of Administrative Hearings, the licensee shall deliver a copy of the petition to the office of the director.

(2) Upon receipt of a petition of hearing, the Office of Administrative Hearings shall set a hearing date and time within five business days of the receipt of the petition. The office shall promptly notify the licensee and the state department of the date, time, and place of the hearing. The office shall assign the case to an administrative law judge. At the hearing, relevant evidence may be presented pursuant to Section 11513 of the Government Code. The administrative law judge shall issue a written decision on the petition within five business days of the conclusion of the hearing. The five-day time periods for holding the hearing and rendering a decision may be extended by the agreement of the parties.

(3) The administrative law judge shall uphold the appointment of the temporary manager if the state department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) apply to the facility. The administrative law judge shall order the termination of the temporary manager if the burden of proof is not satisfied.

(g) The decision of the administrative law judge is subject to judicial review as provided in Section 1094.5 of the Code of Civil Procedure by the superior court sitting in the county where the facility is located. This review may be requested by the licensee of the facility or the state department by filing a petition seeking relief from the order. The petition may also request the issuance of temporary injunctive relief pending the decision on the petition. The superior court shall hold a hearing within five business days of the filing of the petition and shall issue a decision on the petition within five days of the hearing. The state department may be represented by legal counsel within the state department for purposes of court proceedings authorized under this section.

(h) If the licensee of the long-term health care facility does not protest the appointment, it shall continue until the conditions described in subdivision (c) no longer exist or the state department has secured the services of a receiver pursuant to this article.

(i) (1) If the licensee of the long-term health care facility petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the administrative law judge or by the superior court, or it shall continue for 30 days from the date the administrative law judge or the superior court upholds the appointment of the temporary manager, whichever is earlier.

(2) At any time during the appointment of the temporary manager, the director may request an extension of the appointment by filing a petition for hearing with the Office of Administrative Hearings and serving a

copy of the petition on the licensee. The office shall proceed as specified in paragraph (2) of subdivision (f). The administrative law judge may extend the appointment of the temporary manager as follows:

(A) Upon a showing by the state department that the conditions specified in subdivision (c) continue to exist, an additional 60 days.

(B) Upon a finding that the state department is seeking a receiver, until the state department has secured the services of a receiver pursuant to this article.

(3) The licensee or the state department may request review of the administrative law judge's decision on the extension as provided in subdivision (g).

(j) The temporary manager appointed pursuant to this section shall meet the following qualifications:

(1) Be qualified to oversee correction of deficiencies on the basis of experience and education.

(2) Not have been found guilty of misconduct by any licensing board.

(3) Have no financial ownership interest in the facility and have no member of his or her immediate family who has a financial ownership interest in the facility.

(4) Not currently serve, or within the past two years have served, as a member of the staff of the facility.

(5) Be acceptable to the facility.

(k) Payment of the temporary manager's salary shall comply with the following requirements:

(1) Shall be paid directly by the facility while the temporary manager is assigned to that facility.

(2) Shall be equivalent to the sum of the following:

(A) The prevailing salary paid by licensees for positions of the same type in the facility's geographic area.

(B) Additional costs that reasonably would have been incurred by the licensee if the licensee had been in an employment relationship.

(C) Any other reasonable costs incurred by the appointed temporary manager in furnishing services pursuant to this section.

(3) May exceed the amount specified in paragraph (2) if the department is otherwise unable to attract a qualified temporary manager.

(*l*) Temporary management pursuant to this section shall terminate when any one of the following occurs:

(1) The temporary manager notifies the department and the department verifies that the facility meets state, and if applicable, federal, standards for operation and will be able to continue to maintain compliance with those standards after the termination of temporary management.

(2) The facility closes.

(3) The department issues a license to a new operator.

(4) The department approves a new management company.

(m) The state department shall adopt regulations for the administration of this section on or before December 31, 2001.

SEC. 11. Section 1331 of the Health and Safety Code is amended to read:

1331. (a) The receiver shall be appointed for an initial period of not more than six months. The initial six-month period may be extended for additional periods not exceeding six months, as determined by the court pursuant to this section. At the end of four months, the receiver shall report to the court on its assessment of the probability that the long-term health care facility will meet state standards for operation by the end of the initial six-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial six-month period, the court shall take appropriate action as follows:

(1) Extend the receiver's management for an additional six months if there is a substantial likelihood that the facility will meet state standards within that period and will maintain compliance with the standards after termination of the receiver's management. The receiver shall report to the court in writing upon the facility's progress at the end of six weeks of any extension ordered pursuant to this paragraph.

(2) Order the director to revoke or temporarily suspend, or both, the license pursuant to Section 1296 and extend the receiver's management for the period necessary to transfer patients in accordance with the transfer plan, but for not more than six months from the date of initial appointment of a receiver, or 14 days, whichever is greater. An extension of an additional six months may be granted if deemed necessary by the court.

(b) If it appears at the end of six weeks of an extension ordered pursuant to paragraph (1) of subdivision (a) that the facility cannot be brought into compliance with state standards for operation or that it will not maintain compliance with those standards after the receiver's management is terminated, the court shall take appropriate action as specified in paragraph (2) of subdivision (a).

(c) In evaluating the probability that a long-term health care facility will maintain compliance with state standards of operation after the termination of receiver management ordered by the court, the court shall consider at least the following factors:

(1) The duration, frequency, and severity of past violations in the facility.

(2) History of compliance in other long-term health care facilities operated by the proposed licensee.

(3) Efforts by the licensee to prevent and correct past violations.

(4) The financial ability of the licensee to operate in compliance with state standards.

(5) The recommendations and reports of the receiver.

(d) Management of a long-term health care facility operated by a receiver pursuant to this article shall not be returned to the licensee, to any person related to the licensee, or to any person who served as a member of the facility's staff or who was employed by the licensee prior to the appointment of the receiver.

(e) (1) Should a long-term health care facility subject to this section not agree to the appointment of a temporary manager and the department successfully obtain a court-appointed receiver, management of the facility may only be returned to the licensee if the department believes that it would be in the best interests of the residents of the facility and the department requests that the court return the operation of the facility to the former licensee.

(2) Before the court may return the operation of the facility to the former licensee under this subdivision, the department shall provide clear and convincing evidence to the court that it is in the best interests of the facility's residents to take that action.

(f) The owner of the facility may at any time sell, lease, or close the facility, subject to the following provisions:

(1) If the owner closes the facility, or the sale or lease results in the closure of the facility, the court shall determine if a transfer plan is necessary. If the court so determines, the court shall adopt and implement a transfer plan of not more than 30 days.

(2) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a long-term health care facility, the court and the state department shall reevaluate any proposed transfer plan. If the court and the state department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

SEC. 12. Section 1333 of the Health and Safety Code is amended to read:

1333. (a) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (d) of Section 1329, the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute a lien upon the assets of the facility or the

proceeds from the sale thereof. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility.

(b) For purposes of this section, ''entity related to the licensee'' means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which any person who was obligated to disclose information under Section 1267.5 possesses an interest that would also require disclosure pursuant to Section 1267.5.

SEC. 13. Section 1336.2 of the Health and Safety Code is amended to read:

1336.2. (a) When patients are transferred due to any change in the status of the license or operation of a facility, including voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, the facility shall take reasonable steps to transfer affected patients safely and minimize possible transfer trauma by, at a minimum, doing all of the following:

(1) Medically assess, prior to transfer, the patient's condition and susceptibility to adverse health consequences, including psychosocial effects, in the event of transfer. The patient's physician and surgeon, if available, shall undertake this assessment. The assessment shall provide recommendations, including counseling and followup visits, for preventing or ameliorating potential adverse health consequences in the event of transfer.

(2) Provide, in accordance with these assessments, counseling, and other recommended services, prior to transfer, to any affected patient who may suffer adverse health consequences due to transfer.

(3) Evaluate, prior to transfer, the relocation needs of the patient and the patient's family and determine the most appropriate and available type of future care and services for the patient. The health facility shall discuss the evaluation and medical assessment with the patient or the patient's guardian, agent, or responsible party and make the evaluation and assessment part of the medical records for transfer.

(4) Inform, at least 30 days in advance of the transfer, the patient or patient's guardian, agent, or responsible party of alternative facilities that are available and adequate to meet patient and family needs.

(5) Arrange for appropriate, future medical care and services, unless the patient or patient's guardian has otherwise made these arrangements. This requirement does not obligate a facility to pay for future care and services.

(b) The facility shall provide an appropriate team of professional staff to perform the services required in subdivision (a).

(c) The facility shall also give written notice to affected patients or their guardians, agents, or responsible parties advising them of the requirements in subdivision (a) at least 30 days in advance of transfer. If a facility is required to give written notice pursuant to Section 1336,

then the notice shall advise the affected patient or the patient's guardian, agent, or responsible party of the requirements in subdivision (a). If the transfer is made pursuant to subdivision (f), the notice shall include notification to the patient that the transfer plan is available to the patient or patient's representative free of charge upon request.

(d) In the event of a temporary suspension of a facility's license pursuant to Section 1296, the 30-day notice requirement in subdivision (c) shall not apply, but the facility shall provide the relocation services required in subdivision (a) unless the state department provides the services pursuant to subdivision (e).

(e) The state department may provide, or arrange for the provision of, necessary relocation services at a facility, including medical assessments, counseling, and placement of patients, if the state department determines that these services are needed promptly to prevent adverse health consequences to patients, and the facility refuses, or does not have adequate staffing, to provide the services. In these cases, the facility shall reimburse the state department for the cost of providing the relocation services. If a facility's refusal to provide the relocation services required in subdivision (a) endangers the health and safety of patients to be transferred, then the state department may also request that the Attorney General's office or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(f) If 10 or more patients are likely to be transferred due to any voluntary or involuntary change in the status of the license or operation of a facility, including voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, the facility shall submit a proposed relocation plan for the affected patients to the state department for comment, if any, at least 45 days prior to the transfer of any patient. The plan shall provide for implementation of the relocation services in subdivision (a) and shall describe the availability of beds in the area for patients to be transferred, the proposed discharge process, and the staffing available to assist in the transfers. The facility shall submit its final relocation plan to the local ombudsperson, and if different from the proposed plan, to the state department, at least 30 days prior to the transfer of any patient.

SEC. 14. Section 1337.1 of the Health and Safety Code is amended to read:

1337.1. A skilled nursing or intermediate care facility shall adopt an approved training program that meets standards established by the state department. The approved training program shall consist of at least the following:

(a) An orientation program to be given to newly employed nurse assistants prior to providing direct patient care in skilled nursing or intermediate care facilities.

(b) (1) A precertification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and resident abuse prevention, recognition, and reporting pursuant to subdivision (e). The 60 classroom hours of training may be conducted within a skilled nursing or intermediate care facility or in an educational institution.

(2) In addition to the 60 classroom hours of training required under paragraph (1), the precertification training program shall consist of at least 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of nurse training or a licensed nurse. The 100 hours shall consist of at least four hours of supervised training to address the special needs of persons with developmental and mental disorders, including mental retardation, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(3) In a precertification training program subject to this subdivision, credit shall be given for the training received in an approved precertification training program adopted by another skilled nursing or intermediate care facility.

(4) This subdivision shall not apply to a skilled nursing or intermediate care facility that demonstrates to the state department that it employs only nurse assistants with a valid certification.

(c) Continuing in-service training to assure continuing competency in existing and new nursing skills.

(d) Each facility shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).

(e) (1) The approved training program shall include a minimum of six hours of instruction on preventing, recognizing, and reporting instances of resident abuse utilizing those courses developed pursuant to Section 13823.93 of the Penal Code for hospital-based training centers.

(2) A minimum of four hours of instruction on preventing, recognizing, and reporting instances of resident abuse shall be included within the total minimum hours of continuing education required and in effect for certified nursing assistants.

SEC. 14.5. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list

shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. The state department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the state department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the state department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The state department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or medicaid programs.

(2) (A) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the certification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the

supervision of either the director of staff development or a licensed nurse. The 100 hours shall consist of at least four hours of supervised training to address the special needs of persons with developmental and mental disorders, including mental retardation, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) On or before January 1, 2004, the state department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(1) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services.

(2) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job post-certification hours to educational credits.

(f) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 14.7. Section 1417.15 is added to the Health and Safety Code, immediately after Section 1417.1, to read:

1417.15. (a) (1) If one or more of the following remedies is actually imposed for violation of state or federal requirements, the long-term health care facility shall post a notice of the imposed remedy or remedies, in a form specified by the department, on all doors providing ingress to or egress from the facility, except as specified in paragraph (2):

(A) License suspension.

(B) Termination of certification for Medicare or Medi-Cal.

(C) Denial of payment by Medicare or Medi-Cal for all otherwise eligible residents.

(D) Denial of payment by Medicare or Medi-Cal for otherwise eligible incoming residents.

(E) Ban on admission of any type.

(2) For purposes of this subdivision, a distinct part nursing facility shall only be required to post the notice on all main doors providing ingress to or egress from the distinct part, and not on all of the doors providing ingress to or egress from the facility. An intermediate care facility/developmentally disabled habilitative and an intermediate care facility/developmentally disabled-nursing shall post this notice on the inside of all doors providing ingress to or egress from the facility.

(b) A violation of the requirement of subdivision (a) shall be a class ''B'' violation, as defined in subdivision (e) of Section 1424.

(c) The department shall adopt regulations for the administration of this section.

SEC. 14.9. 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 titled 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. 15. Section 1417.3 of the Health and Safety Code is amended to read:

1417.3. The department shall promote quality of care and quality of life for residents, clients, and patients in long-term health care facility services through specific activities that include, but are not limited to, all of the following:

(a) Research and evaluation of innovative facility resident care models.

(b) (1) Provision of statewide training on effective facility practices.

(2) Training also shall include topics related to the provision of quality of care and quality of life for facility residents. The topics for training shall be identified by the department through a periodic survey. The curriculum for the training provided under this paragraph shall be developed in consultation with representatives from provider associations, consumer associations, and others, as deemed appropriate by the state department.

(c) Response to facility requests for technical assistance regarding licensing and certification requirements, compliance with federal and state standards, and related operational issues.

(d) State employees providing technical assistance to facilities pursuant to this section are only required to report violations they discover during the provision of the assistance to the appropriate district office if the violations constitute an immediate and serious threat to the health and welfare of, or has resulted in actual harm to, patients, residents, or clients of the facility.

(e) The state department shall measure facility satisfaction and the effectiveness of the technical assistance provided pursuant to subdivision (c).

(f) No person employed in the technical assistance or training units under subdivisions (b) and (c) shall also participate in the licensing, surveying, or direct regulation of facilities.

(g) This section shall not diminish the department's ongoing survey and enforcement process.

SEC. 16. Section 1417.4 of the Health and Safety Code is amended to read:

1417.4. (a) There is hereby established in the state department the Quality Awards Program for nursing homes.

(b) The department shall establish criteria under the program, after consultation with stakeholder groups, for recognizing all skilled nursing facilities that provide exemplary care to residents.

(c) (1) 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 annual Budget Act.

(2) 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.

(3) 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.

(d) The department shall establish criteria for selecting facilities to receive the quality awards, 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. 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.

(e) The department shall publish an annual listing of the Quality Awards Program recipients with the dollar amount awarded, if applicable. The department shall also publish an annual listing of the Quality Awards Program recipients that receive innovative facility grants with the purpose of the grant and the grant amount.

SEC. 17. Section 1418.91 is added to the Health and Safety Code, immediately after Section 1418.9, to read:

1418.91. (a) A long-term health care facility shall report all incidents of alleged abuse or suspected abuse of a resident of the facility to the department immediately, or within 24 hours.

(b) A failure to comply with the requirements of this section shall be a class ''B'' violation.

(c) For purposes of this section, ''abuse'' shall mean any of the conduct described in subdivisions (a) and (b) of Section 15610.07 of the Welfare and Institutions Code.

(d) This section shall not change any reporting requirements under Section 15630 of the Welfare and Institutions Code, or as otherwise specified in the Elder Abuse and Dependent Adult Civil Protection Act, Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 18. Section 1420 of the Health and Safety Code is amended to read:

1420. (a) (1) Upon receipt of a written or oral complaint, the state department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant within two working days of the receipt of the complaint of the name of the inspector. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection or investigation within 10 working days of the receipt of the complaint. In any case in which the complaint involves a serious threat of imminent danger of death or serious bodily harm, the state department shall make an onsite inspection or investigation within 24 hours of the receipt of the complaint. In any event, the complainant shall be promptly informed of the state department's proposed course of action and of the opportunity to accompany the inspector on the inspection or investigation of the facility. Upon the request of either the complainant or the state department, the complainant or his or her representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby.

(2) When conducting an onsite inspection or investigation pursuant to this section, the state department shall collect and evaluate all available evidence and may issue a citation based upon, but not limited to, all of the following:

(A) Observed conditions.

(B) Statements of witnesses.

(C) Facility records.

(3) Within 10 working days of the completion of the complaint investigation, the state department shall notify the complainant in writing of the department's determination as a result of the inspection or investigation.

(b) Upon being notified of the state department's determination as a result of the inspection or investigation, a complainant who is dissatisfied with the state department's determination, regarding a matter which would pose a threat to the health, safety, security, welfare, or rights of a resident, shall be notified by the state department of the right to an informal conference, as set forth in this section. The complainant may, within five business days after receipt of the notice, notify the director in writing of his or her request for an informal conference. The informal conference shall be held with the designee of the director for the county in which the long-term health care facility which is the subject of the complaint is located. The long-term health care facility may participate as a party in this informal conference. The director's designee shall notify the complainant and licensee of his or her determination within 10 working days after the informal conference and

shall apprise the complainant and licensee in writing of the appeal rights provided in subdivision (c).

(c) If the complainant is dissatisfied with the determination of the director's designee in the county in which the facility is located, the complainant may, within 15 days after receipt of this determination, notify in writing the Deputy Director of the Licensing and Certification Division of the state department, who shall assign the request to a representative of the Complainant Appeals Unit for review of the facts that led to both determinations. As a part of the Complainant Appeals Unit's independent investigation, and at the request of the complainant, the representative shall interview the complainant in the district office where the complaint was initially referred. Based upon this review, the Deputy Director of the Licensing and Certification Division of the state department shall make his or her own determination and notify the complainant and the facility within 30 days.

(d) Any citation issued as a result of a conference or review provided for in subdivision (b) or (c) shall be issued and served upon the facility within three working days of the final determination, unless the licensee agrees in writing to an extension of this time. Service shall be effected either personally or by registered or certified mail. A copy of the citation shall also be sent to each complainant by registered or certified mail.

(e) A miniexit conference shall be held with the administrator or his or her representative upon leaving the facility at the completion of the investigation to inform him or her of the status of the investigation. The department shall also state the items of noncompliance and compliance found as a result of a complaint and those items found to be in compliance, provided the disclosure maintains the anonymity of the complainant. In any matter in which there is a reasonable probability that the identity of the complainant will not remain anonymous, the state department shall also state that it is unlawful to discriminate or seek retaliation against the complainant.

(f) For purposes of this section, ''complaint'' means any oral or written notice to the state department, other than a report from the facility of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute such a violation.

SEC. 19. Section 1421.1 of the Health and Safety Code is amended 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 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 employees 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 of the facility.

(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. 20. Section 1421.2 of the Health and Safety Code is amended to read:

1421.2. (a) There is hereby established in the state department the Skilled Nursing Facility Financial Solvency Advisory Board.

(b) The board shall be composed of eight members.

The members shall consist of the director, or the director's designee, and seven members appointed by the director.

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) Consumer advocacy or representation.

(3) Nursing facility employee organizations.

(4) Accountancy.

(5) Research or actuarial studies in the area of skilled nursing facilities.

(6) Management or administration of health care delivery systems.

(c) One of the members appointed by the director shall be a representative of a collective bargaining agent.

(d) 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 relating to the operation of skilled nursing facilities.

(3) Periodically monitor and report on the implementation and results of the financial solvency licensing requirements and standards.

(e) 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.

(f) 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 and approved by the director may be noticed, after a period of review and comment not to exceed 45 days, 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 on or before 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. 21. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982 to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) (1) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class ''AA,'' class ''A,'' or class ''B'' violations in the past twelve months. The state department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term health care

facilities. Every facility shall be inspected at least once every two years. The department shall vary the cycle in which inspections of long-term health care facilities are conducted to reduce the predictability of the inspections.

(2) The state department shall submit to the federal Department of Health and Human Services on or before July 1, 1985, for review and approval, a request to implement a three-year pilot program designed to lessen the predictability of the long-term health care facility inspection process. Two components of the pilot program shall be (A) the elimination of the present practice of entering into a one-year certification agreement, and (B) the conduct of segmented inspections of a sample of facilities with poor inspection records, as defined by the state department. At the conclusion of the pilot project, an analysis of both components shall be conducted by the state department to determine effectiveness in reducing inspection predictability and the respective cost benefits. Implementation of this pilot project is contingent upon federal approval. The state department shall report annually to the Legislature on progress of the pilot project with a final report at the end of the third year.

(c) Except as otherwise provided in subdivision (b), the state department shall conduct unannounced direct patient care inspections at least annually to inspect physician and surgeon services, nursing services, pharmacy services, dietary services, and activity programs of all the long-term health care facilities. Facilities evidencing repeated serious problems in complying with this chapter or a history of poor performance, or both, shall be subject to periodic unannounced direct patient care inspections during the inspection year. The direct patient care inspections shall assist the state department in the prioritization of its efforts to correct facility deficiencies.

(d) All long-term health care facilities shall report to the state department any changes in the nursing home administrator or the director of nursing services within 10 calendar days of the changes.

(e) Within 90 days after the receipt of notice of a change in the nursing home administrator or the director of nursing services, the state department may conduct an abbreviated inspection of the long-term health care facilities.

(f) If a change in a nursing home administrator occurs and the Board of Nursing Home Administrators notifies the state department that the new administrator is on probation or has had his or her license suspended within the previous three years, the state department shall conduct an abbreviated survey of the long-term health care facility employing that administrator within 90 days of notification.

SEC. 21.5. Section 1422.5 of the Health and Safety Code is amended to read:

1422.5. (a) The department shall develop and establish a consumer information service system to provide updated and accurate information to the general public and consumers regarding long-term care facilities in their communities. The consumer information service system shall include, but need not be limited to, all of the following elements:

(1) An on-line inquiry system accessible through a statewide toll-free telephone number and the Internet.

(2) Long-term health care facility profiles, with data on services provided, a history of all citations and complaints for the last two full survey cycles, and ownership information. The profile for each facility shall include, but not be limited to, all of the following:

(A) The name, address, and telephone number of the facility.

(B) The number of units or beds in the facility.

(C) Whether the facility accepts Medicare or Medi-Cal patients.

(D) Whether the facility is a nursing home, and whether the facility has a special care unit or program for people with Alzheimer's disease and other dementias, and whether the facility participates in the voluntary disclosure program for special care units.

(E) Whether the facility is a for profit or not-for-profit provider.

(3) Information regarding substantiated complaints shall include the action taken and the date of action.

(4) Information regarding the state citations assessed shall include the status of the state citation, including the facility's plan or correction, and information as to whether an appeal has been filed.

(5) Any appeal resolution pertaining to a citation or complaint shall be updated on the file in a timely manner.

(b) Where feasible, the department shall interface the consumer information service system with its Automated Certification and Licensure Information Management System.

(c) It is the intent of the Legislature that the department, in developing and establishing the system pursuant to subdivision (a), maximize the use of available federal funds.

(d) (1) Notwithstanding the consumer information service system established pursuant to subdivision (a), by January 1, 2002, the state department shall develop a method whereby information is provided to the public and consumers on long-term health care facilities. The information provided shall include, but not be limited to, all of the following elements:

(A) Substantiated complaints, including the action taken and the date of the action.

(B) State citations assessed, including the status of any citation and whether an appeal has been filed.

(C) State actions, including license suspensions, revocations, and receiverships.

(D) Federal enforcement sanctions imposed, including any denial of payment, temporary management, termination, or civil money penalty of five hundred dollars ($500) or more.

(E) Any information or data beneficial to the public and consumers.

(2) This subdivision shall become inoperative on July 1, 2003.

(e) In implementing this section, the department shall ensure the confidentiality of personal and identifying information of residents and employees and shall not disclose this information through the consumer information service system developed pursuant to this section.

SEC. 22. Section 1422.6 is added to the Health and Safety Code, to read:

1422.6. Each skilled nursing facility and intermediate care facility shall post a copy of the notice required pursuant to Section 9718 of the Welfare and Institutions Code in a conspicuous location in at least four areas of the facility, as follows:

(a) One location that is accessible to members of the public.

(b) One location that is used for employee breaks.

(c) One location that is next to a telephone designated for resident use.

(d) One location that is used for communal functions for residents, such as for dining or resident council meetings and activities.

SEC. 23. Section 1423.5 is added to the Health and Safety Code, to read:

1423.5. (a) The state department shall centrally review federal deficiencies and supporting documentation that require the termination of certification for a nursing facility. The state department shall develop a standardized methodology for conducting the central review of these deficiencies. The standardized methodology shall assess all of the following:

(1) The extent to which the survey team followed established survey protocols.

(2) The thoroughness of the investigation or review.

(3) The quality of documentation.

(4) The consistency in interpreting federal requirements.

(b) The state department shall develop a system for tracking patterns and a quality assurance process for preventing, detecting, and correcting inconsistent or poor quality survey practices.

(c) On or before October 1 of each year, the state department shall provide to the Legislature a summary of federal enforcement actions taken against nursing facilities during the previous state fiscal year.

SEC. 24. Section 1424 of the Health and Safety Code is amended to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof.

(a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:

(1) The probability and severity of the risk that the violation presents to the patient's or resident's mental and physical condition.

(2) The patient's or resident's medical condition.

(3) The patient's or resident's mental condition and his or her history of mental disability or disorder.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(b) Relevant facts considered by the department in determining the amount of the civil penalty shall be documented by the department on an attachment to the citation and available in the public record. This requirement shall not preclude the department or a facility from introducing facts not listed on the citation to support or challenge the amount of the civil penalty in any proceeding set forth in Section 1428.

(c) Class ''AA'' violations are violations that meet the criteria for a class ''A'' violation and that the state department determines to have been a direct proximate cause of death of a patient or resident of a long-term health care facility. Except as provided in Section 1424.5, a class ''AA'' citation is subject to a civil penalty in the amount of not less than five thousand dollars ($5,000) and not exceeding twenty-five thousand dollars ($25,000) for each citation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:

(1) The violation was a direct proximate cause of death of a patient or resident.

(2) The death resulted from an occurrence of a nature that the regulation was designed to prevent.

(3) The patient or resident suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation shall be dismissed.

Except as provided in Section 1424.5, for each class ''AA'' citation within a 12-month period that has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class ''AA'' citation in a facility within that 12-month period that has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

(d) Class ''A'' violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients or residents of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients or residents of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute a class ''A'' violation. The condition or practice constituting a class ''A'' violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. Except as provided in Section 1424.5, a class ''A'' citation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding ten thousand dollars ($10,000) for each and every citation.

If the state department establishes that a violation occurred, the licensee shall have the burden of proving that the licensee did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation shall be dismissed.

(e) Class ''B'' violations are violations that the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients or residents, other than class ''AA'' or ''A'' violations. Unless otherwise determined by the state department to be a class ''A'' violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Code of Regulations, that is determined by the state department to cause or under circumstances likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class ''B'' violation. A class ''B'' citation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) for each and every citation. A class ''B'' citation shall specify the time within which the violation is required to be corrected. If the state department establishes that a violation occurred, the licensee shall have the burden of proving that the licensee did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation shall be dismissed.

In the event of any citation under this paragraph, if the state department establishes that a violation occurred, the licensee shall have the burden of proving that the licensee did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation shall be dismissed.

(f) (1) Any willful material falsification or willful material omission in the health record of a patient of a long-term health care facility is a violation.

(2) ''Willful material falsification,'' as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, that was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

(3) ''Willful material omission,'' as used in this section, means the willful failure to record any untoward event that has affected the health, safety, or security of the specific patient, and that was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

(g) Except as provided in subdivision (a) of Section 1425.5, a violation of subdivision (f) may result in a civil penalty not to exceed ten thousand dollars ($10,000), as specified in paragraphs (1) to (3), inclusive.

(1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than ten thousand dollars ($10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administration of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500).

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class ''B'' violation, and shall include the right of appeal as specified in Section 1428. Where the assessed penalty is in excess of one thousand dollars ($1,000), or for skilled nursing facilities or intermediate care facilities as specified in paragraphs (1) and (2) of subdivision (a) of Section 1418, in excess of two thousand dollars ($2,000), the violation shall be issued and enforced, except as provided in this subdivision, in the same manner as a class ''A'' violation, and shall include the right of appeal as specified in Section 1428.

Nothing in this section shall be construed as a change in previous law enacted by Chapter 11 of the Statutes of 1985 relative to this paragraph, but merely as a clarification of existing law.

(3) Nothing in this subdivision shall preclude the state department from issuing a class ''A'' or class ''B'' citation for any violation that meets the requirements for that citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both as a class ''A'' or class ''B'' violation and as a violation of this subdivision.

(h) Where the licensee has failed to post the notices as required by Section 9718 of the Welfare and Institutions Code in the manner required under Section 1422.6, the state department shall assess the licensee a civil penalty in the amount of one hundred dollars ($100) for each day the failure to post the notices continues. Where the total penalty assessed is two thousand dollars ($2,000) or less, the violation shall be issued and enforced in the same manner as a class 'B' violation, and shall include the right of appeal as specified in Section 1428. Where the assessed penalty is equal to or in excess of two thousand dollars ($2,000), the violation shall be issued and enforced in the same manner as a class ''A'' violation and shall include the right of appeal as specified in Section 1428. Any fines collected pursuant to this subdivision shall be used to fund the costs incurred by the California Department of Aging in producing and posting the posters.

(i) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.

(j) The department shall provide a copy of all citations issued under this section to the affected residents mentioned in the violation and to the affected residents' family or designated legal representative.

(k) Nothing in this section is intended to change existing statutory or regulatory requirements governing the ability of a licensee to contest a citation pursuant to Section 1428.

(*l*) The department shall ensure that district office activities performed under Sections 1419 to 1424, inclusive, are consistent with the requirements of these sections and all applicable laws and regulations. To ensure the integrity of these activities, the department shall establish a statewide process for the collection of postsurvey evaluations from affected facilities.

SEC. 25. Section 1424.5 is added to the Health and Safety Code, to read:

1424.5. (a) In lieu of the fines specified in subdivisions (c), (d), and (e) of Section 1424, fines imposed on skilled nursing facilities or intermediate care facilities, as specified in paragraphs (1) and (2) of subdivision (a) of Section 1418, shall be as follows:

(1) A class ''AA'' citation is subject to a civil penalty in an amount not less than twenty-five thousand dollars ($25,000) and not exceeding one hundred thousand dollars ($100,000) for each and every citation. For

a second or subsequent class ''AA'' citation in a skilled nursing facility or intermediate care facility within a 24-month period that has been sustained following a citation review conference, or where the licensee has chosen not to exercise its right to a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

(2) A class ''A'' citation is subject to a civil penalty in an amount not less than two thousand dollars ($2,000) and not exceeding twenty thousand dollars ($20,000) for each and every citation.

(3) Any ''willful material falsification'' or ''willful material omission,'' as those terms are defined in subdivision (f) of Section 1424, in the health record of a resident is subject to a civil penalty in an amount not less than two thousand dollars ($2,000) and not exceeding twenty thousand dollars ($20,000) for each and every citation.

(b) A licensee may, in lieu of contesting a class ''AA'' or class ''A'' citation pursuant to Section 1428, transmit to the state department, the minimum amount specified by law, or 65 percent of the amount specified in the citation, whichever is greater, for each violation, within 30 business days after the issuance of the citation.

SEC. 26. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If the licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall use the processes described in subdivisions (b) and (c) for classes ''AA,'' ''A,'' or ''B'' citations. As a result of a citation review conference, a citation or the proposed assessment of a civil penalty may be affirmed, modified, or dismissed by the director or the director's designee. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within 15 business days after he or she receives the decision by the director's designee.

(b) If a licensee notifies the director that he or she intends to contest a class ''AA'' or a class ''A'' citation, the licensee may first, within 15 business days after service of the citation, notify the director in writing of his or her request for a citation review conference. The licensee shall inform the director in writing, within 15 business days of the service of the citation or the receipt of the decision of the director's designee after the citation review conference, of the licensee's intent to adjudicate the validity of the citation in the municipal or superior court in the county in which the long-term health care facility is located. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action

in the municipal or superior court in the county in which the long-term health care facility is located. The action shall be filed no later than 90 calendar days after a licensee notifies the director that he or she intends to contest the citation, or no later than 90 days after the receipt of the decision by the director's designee after the citation review conference, and served not later than 90 days after filing. Notwithstanding any other provision of law, a licensee prosecuting a judicial appeal shall file and serve an at-issue memorandum pursuant to Rule 209 of the California Rules of Court within six months after the state department files its answer in the appeal. Notwithstanding subdivision (d), the court shall dismiss the appeal upon motion of the state department if the at-issue memorandum is not filed by the facility within the period specified. The court may affirm, modify, or dismiss the citation, the level of the citation, or the amount of the proposed assessment of the civil penalty.

(c) If a licensee desires to contest a class ''B'' citation, the licensee may request, within 15 business days after service of the citation, a citation review conference, by writing the director or the director's designee of the licensee's intent to appeal the citation through the citation review conference. If the licensee wishes to appeal the citation which has been upheld in a citation review conference, the licensee shall, within 15 working days from the date the citation review conference decision was rendered, notify the director or the director's designee that he or she wishes to appeal the decision through the procedures set forth in Section 100171 or elects to submit the matter to binding arbitration in accordance with subdivision (d). The administrative law judge may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. The licensee may choose to have his or her appeal heard by the administrative law judge or submit the matter to binding arbitration without having first appealed the decision to a citation review conference by notifying the director in writing within 15 business days of the service of the citation.

(d) If a licensee is dissatisfied with the decision of the administrative law judge, the licensee may, in lieu of seeking judicial review of the decision as provided in Section 1094.5 of the Code of Civil Procedure, elect to submit the matter to binding arbitration by filing, within 60 days of its receipt of the decision, a request for arbitration with the American Arbitration Association. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the election to arbitrate, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. Except as otherwise specifically provided in this subdivision, the arbitration hearing shall be conducted

in accordance with the American Arbitration Association's established rules and procedures. The arbitrator shall determine whether the licensee violated the regulation or regulations cited by the department, and whether the citation meets the criteria established in Sections 1423 and 1424. If the arbitrator determines that the licensee has violated the regulation or regulations cited by the department, and that the class of the citation should be upheld, the proposed assessment of a civil penalty shall be affirmed, subject to the limitations established in Section 1424. The licensee and the department shall each bear its respective portion of the cost of arbitration. A resident, or his or her designated representative, or both, entitled to participate in the citation review conference pursuant to subdivision (f), may make an oral or written statement regarding the citation, at any arbitration hearing to which the matter has been submitted after the citation review conference.

(e) If an appeal is prosecuted under this section, including an appeal taken in accordance with Section 100171, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation, or the proposed assessment of a civil penalty therefor, or the decision made by the director's designee, after a citation review conference, within the time specified in this section, the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review, except that the licensee may seek judicial relief from the time limits specified in this section. If a licensee appeals a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(f) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically

identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference:

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as referred to in subdivision (d) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as referred to in subdivision (d) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents or family council shall designate which representative will participate.

The complainant, affected resident, and their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(g) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

(1) The probability and severity of the risk which the violation presents to the patient's or resident's mental and physical condition.

(2) The patient's or resident's medical condition.

(3) The patient's or resident's mental condition and his or her history of mental disability.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(h) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class ''A'' or class ''B'' violation shall be trebled and collected for a second and subsequent violation for which a citation of the same class was issued within any 12-month period. Trebling shall occur only if the first citation issued within the 12-month period was issued in the same class, a civil penalty was assessed, and a plan of correction was submitted for the previous same-class violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and

payable unless and until the previous action has terminated in favor of the state department.

If the class ''B'' citation is issued for a patient's rights violation, as defined in subdivision (c) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

(i) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.

(j) Actions brought under this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing the proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(k) If the citation is dismissed, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed.

(*l*) Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this chapter. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this requirement, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients or residents of the facility.

(m) The amendments made to subdivisions (a) and (c) of this section by Chapter 84 of the Statutes of 1988, to extend the number of days allowed for the provision of notification to the director, do not affect the right, that is also contained in those amendments, to request judicial relief from these time limits.

SEC. 27. Section 1428.1 of the Health and Safety Code is amended to read:

1428.1. Except as provided in subdivision (d) of Section 1424.5, a licensee may, in lieu of contesting a citation pursuant to Section 1428, transmit to the state department the minimum amount specified by law, or 65 percent of the amount specified in the citation, whichever is greater, for each violation within 15 business days after the issuance of the citation.

SEC. 28. Section 1429.1 is added to the Health and Safety Code, to read:

1429.1. (a) If a long-term health care facility licensed as a skilled nursing facility or an intermediate care facility, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1418, has one or more of the following remedies actually imposed for violation of state or federal requirements, the facility shall provide written notification of the action to each resident, the resident's responsible party and legal representative, and all applicants for admission to the facility:

(1) Termination of the facility's provider agreement to participate in the Medicare program, medicaid program, or both programs.

(2) Denial of Medicare or medicaid payment for new admissions to the facility.

(3) Denial by the Health Care Financing Administration of Medicare or medicaid payment for all individuals in the facility.

(4) A ban on admissions, of any type.

(b) A violation of the requirements of this section shall be a class "B" violation.

SEC. 29. Section 1430.5 of the Health and Safety Code is repealed.

SEC. 30. Section 1435 of the Health and Safety Code is repealed.

SEC. 31. Section 1435.5 of the Health and Safety Code is repealed.

SEC. 32. Section 1437.5 is added to the Health and Safety Code, to read:

1437.5. (a) If a facility is certified to participate in the federal Medicare program as a skilled nursing facility under Title XVIII of the Social Security Act, in the medicaid program as a nursing facility under Title XIX of the Social Security Act, or in both and any of the following occurs, the state department may rescind its permanent license to operate and issue a provisional license under Section 1437:

(1) The facility's provider agreement is terminated.

(2) A temporary manager is appointed to operate it.

(3) Payment becomes due on a federal civil money penalty of seven thousand dollars ($7,000) per day, or greater, imposed on it.

(4) A federal civil monetary penalty of any amount is imposed and has continued for a period of 30 days or more.

(5) A federal civil monetary penalty of any amount is imposed and has accrued in an amount equal to, or greater than, thirty-five thousand dollars ($35,000).

(b) The state department may not take action pursuant to subdivision (a) until a final administrative decision is issued if the facility has requested a hearing pursuant to federal law, until a facility has waived its right to a hearing under federal law, or until the time for requesting a hearing under federal law has expired and a hearing request was not received by federal authorities.

(c) If a receiver or temporary manager is appointed to operate a skilled nursing facility or an intermediate care facility, specified in paragraphs

(1) and (2) of subdivision (a) of Section 1418, pursuant to state law, or as otherwise specified in regulations adopted by the department, the state department may rescind its permanent license to operate and issue a provisional license under Section 1437.

(d) (1) A provisional license issued pursuant to this section shall terminate six months from the date of issuance unless extended by the department.

(2) At least 30 days prior to the termination of a provisional license, the department shall give the facility a full and complete inspection. If, at the time of the inspection, it is determined that the facility meets all applicable requirements for licensure, a permanent license shall be restored. If, at the time of the inspection, it is determined that the facility does not meet the requirements for licensure, but the facility has made substantial progress towards meeting the requirements, as determined by the department, the provisional license shall be renewed for six months. If, at the time of the first inspection, the department determines that there has not been substantial progress towards meeting the requirements for licensure, or, if at any subsequent inspection the department determines that there has not been substantial progress towards meeting requirements identified at the most recent previous inspection, a permanent license shall not be issued.

(e) The facility may request a hearing in writing within 10 days of the receipt of notice from the department denying a permanent license under this section. The provisional license shall remain in effect during the pendency of the hearing. The hearing shall be held in accordance with Section 100171. The hearing officer shall uphold the denial of a permanent license if the department proves, by a preponderance of the evidence, that the licensee did not meet the requirements for licensure.

SEC. 33. Section 1438 of the Health and Safety Code is amended to read:

1438. The state department shall review the effectiveness of the enforcement system in maintaining the quality of care provided by long-term health care facilities and shall submit a report thereon to the Legislature on enforcement activities, on or before December 1, 2001, and annually thereafter, together with any recommendations of the state department for additional legislation which it deems necessary to improve the effectiveness of the enforcement system or to enhance the quality of care provided by long-term health care facilities.

SEC. 33.5. Section 1599.1 of the Health and Safety Code is amended to read:

1599.1. Written policies regarding the rights of patients shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Those policies and procedures shall ensure that each patient admitted to

the facility has the following rights and is notified of the following facility obligations, in addition to those specified by regulation:

(a) The facility shall employ an adequate number of qualified personnel to carry out all of the functions of the facility.

(b) Each patient shall show evidence of good personal hygiene, be given care to prevent bedsores, and measures shall be used to prevent and reduce incontinence for each patient.

(c) The facility shall provide food of the quality and quantity to meet the patients' needs in accordance with physicians' orders.

(d) The facility shall provide an activity program staffed and equipped to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities. Patients shall be encouraged to participate in activities suited to their individual needs.

(e) The facility shall be clean, sanitary, and in good repair at all times.

(f) A nurses' call system shall be maintained in operating order in all nursing units and provide visible and audible signal communication between nursing personnel and patients. Extension cords to each patient's bed shall be readily accessible to patients at all times.

(g) (1) If a facility has a significant beneficial interest in an ancillary health service provider or if a facility knows that an ancillary health service provider has a significant beneficial interest in the facility, as provided by subdivision (a) of Section 1323, or if the facility has a significant beneficial interest in another facility, as provided by subdivision (c) of Section 1323, the facility shall disclose that interest in writing to the patient, or his or her representative, and advise the patient, or his or her representative, that the patient may choose to have another ancillary health service provider, or facility, as the case may be, provide any supplies or services ordered by a member of the medical staff of the facility.

(2) A facility is not required to make any disclosures required by this subdivision to any patient, or his or her representative, if the patient is enrolled in an organization or entity which provides or arranges for the provision of health care services in exchange for a prepaid capitation payment or premium.

(h) (1) If a resident of a long-term health care facility has been hospitalized in an acute care hospital and asserts his or her rights to readmission pursuant to bed hold provisions or readmission rights of either state or federal law and the facility refuses to readmit him or her, the resident may appeal the facility's refusal.

(2) The refusal of the facility as described in this subdivision shall be treated as if it were an involuntary transfer under federal law and the rights and procedures that apply to appeals of transfers and discharges of nursing facility residents shall apply to the resident's appeal under this subdivision.

(3) If the resident appeals pursuant to this subdivision, and the resident is eligible under the Medi-Cal program, the resident shall remain in the hospital and the hospital may be reimbursed at the administrative day rate, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(4) If the resident appeals pursuant to this subdivision, and the resident is not eligible under the Medi-Cal program, the resident shall remain in the hospital if other payment is available, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(5) If the resident is not eligible for participation in the Medi-Cal program and has no other source of payment, the hearing and final determination shall be made within 48 hours.

SEC. 34. Section 14124.7 of the Welfare and Institutions Code is amended to read:

14124.7. (a) No long-term health care facility participating as a provider under the Medi-Cal program shall seek to evict out of the facility or, effective January 1, 2002, transfer within the facility, any resident as a result of the resident changing his or her manner of purchasing the services from private payment or Medicare to Medi-Cal, except that a facility may transfer a resident from a private room to a semiprivate room if the resident changes to Medi-Cal payment status. This section also applies to residents who have made a timely and good faith application for Medi-Cal benefits and for whom an eligibility determination has not yet been made.

(b) This section does not apply to any resident of a skilled nursing facility or intermediate care facility, receiving respite care services, as defined in Section 1418.1 of the Health and Safety Code, unless it is already being provided through a Medicaid waiver program pursuant to Section 1396n of Title 42 of the United States Code, or is already allowed as a covered service by the Medi-Cal program.

(c) Nothing in this section shall limit a facility's ability to transfer a resident within a facility, as provided by law, because of a change in a resident's health care needs or if the bed retention would result in there being no available Medicare-designated beds within a facility.

(d) This section shall be implemented only to the extent it does not conflict with federal law.

SEC. 35. Section 14126.02 is added to the Welfare and Institutions Code, to read:

14126.02. (a) It is the intent of the Legislature to devise a Medi-Cal long-term care reimbursement methodology that more effectively ensures individual access to appropriate long-term care services, promotes quality resident care, advances decent wages and benefits for nursing home workers, supports provider compliance with all applicable

state and federal requirements, and encourages administrative efficiency.

(b) (1) The department shall review the current Medi-Cal reimbursement system to evaluate the extent to which the methodology supports the objectives stated in subdivision (a). The scope of the review shall encompass the structure currently used for peer groups, audits, projections, updates and other rate development factors that have an impact on the quality of care.

(2) The department shall examine several alternative rate methodology models for a new Medi-Cal reimbursement system for skilled nursing facilities to include, but not be limited to, consideration of the following:

(A) Classification of residents based on the resource utilization group system or other appropriate acuity classification system.

(B) Facility specific case mix factors.

(C) Direct care labor based factors.

(D) Geographic or regional differences in the cost of operating facilities and providing resident care.

(c) The department shall submit to the Legislature a formal report and proposal for any statutory changes necessary to implement recommendations related to best meeting the objectives stated in subdivision (a) and the costs associated with any changes.

(d) The alternatives for a new system described in paragraph (2) of subdivision (b) shall be developed in consultation with recognized experts with experience in long-term care reimbursement, economists, the Attorney General, the federal Health Care Financing Administration, and other interested parties.

(e) In implementing this section, the department may contract as necessary, on a bid or nonbid basis, for professional consulting services from nationally recognized higher education and research institutions, or other qualified individuals and entities not associated with a skilled nursing facility, with demonstrated expertise in long-term care reimbursement systems. The review specified in subdivision (b) shall be conducted with all possible expedience. This subdivision establishes an accelerated process for issuing contracts pursuant to this section and contracts entered into pursuant to this subdivision shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contracts Code.

SEC. 36. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the State Department of Health Services without regard to fiscal years for the purpose of implementing Section 14126.02 of the Welfare and Institutions Code.

(b) It is the intent of the Legislature that the amount of the appropriation specified in subdivision (a) be matched by federal funds.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 452

An act to amend Sections 124555 and 124710 of the Health and Safety Code, relating to health care.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

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

SECTION 1. Section 124555 of the Health and Safety Code, as added by Section 2 of Chapter 744 of the Statutes of 1999, is amended to read:

124555. (a) (1) It is the intent of the Legislature that funds distributed under this section promote stability for participating clinics, as a part of the state's health care safety net, and at the same time be distributed in a manner that best promotes access to health care to seasonal agricultural and migratory workers and their families.

(2) The department shall grant funds, for up to three years per grant, to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining a health services program for seasonal agricultural and migratory workers and their families.

(b) In order to be eligible to receive funds under this program, a clinic shall, at a minimum, meet all of the following conditions:

(1) The clinic shall be licensed under either paragraph (1) or (2) of subdivision (a) of Section 1204.

(2) The clinic's patient population shall include at least 25 percent farmworkers and their dependents.

(3) The clinic shall operate in a medically underserved area, including a Health Professional Shortage Area, or serve a medically underserved population, as designated by the United States Department of Health and Human Services, or shall be able to demonstrate that at least 50 percent

of its patients are persons with incomes at or below 200 percent of the federal poverty level.

(c) The department shall seek input from stakeholders in designing the methodology for distribution of funds under this section.

SEC. 2. Section 124710 of the Health and Safety Code, as added by Section 5 of Chapter 744 of the Statutes of 1999, is amended to read:

124710. (a) (1) It is the intent of the Legislature that funds distributed under this section promote stability for participating clinics, as a part of the state's health care safety net, and at the same time be distributed in a manner that best promotes access to health care to geographically isolated populations.

(2) The department shall grant funds, for up to three years per grant, to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining rural health services and development projects as specified under this article.

(b) In order to be eligible to receive funds under this program, a clinic shall, at a minimum, meet all of the following conditions:

(1) The clinic shall be licensed under paragraph (1) or (2) of subdivision (a) of Section 1204.

(2) The clinic shall operate in a ''rural'' Medical Study Service Area, as defined by the Health Manpower Commission.

(3) The clinic shall operate in a medically underserved area, including a Health Professional Shortage Area, or serve a medically underserved population, as designated by the United States Department of Health and Human Services, or shall be able to demonstrate that at least 50 percent of its patients are persons with incomes at or below 200 percent of the federal poverty level.

(c) The department shall seek input from stakeholders in designing the methodology for distribution of funds under this section.

CHAPTER 453

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

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

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

(a) Under existing Medi-Cal program provisions relating to the scope of health and medical care, as contained in Section 14059 of the Welfare

and Institutions Code, reference to ''conditions that interfere with normal activity'' necessarily includes conditions that interfere with the ability of a parent or other caretaker to care for a child.

(b) Section 14059.5 of the Welfare and Institutions Code provides that under the Medi-Cal program, a service is considered medically necessary when it is reasonably necessary to prevent significant disability.

(c) Conditions that interfere with the ability of a parent or caretaker to care for a child constitute a severe disability within the meaning of Section 14059.5 of the Welfare and Institutions Code.

SEC. 2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for the developmentally disabled are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to

require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in a nursing facility or any category of intermediate care facility for the developmentally disabled.

(g) Blood and blood derivatives are covered.

(h) (1) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's California Children Services Program.

(2) For persons 21 years of age or older, the services specified in paragraph (1) shall be provided subject to the following conditions:

(A) Periodontal treatment is not a benefit.

(B) Endodontic therapy is not a benefit except for vital pulpotomy.

(C) Laboratory processed crowns are not a benefit.

(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.

(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.

(F) Notwithstanding the conditions specified in subparagraphs (A) to (E), inclusive, the department may approve services for persons with special medical disorders subject to utilization review.

(3) Paragraph (2) shall become inoperative July 1, 1995.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control. The utilization controls shall allow authorization of durable medical equipment needed to assist a disabled beneficiary in caring for a child for whom the disabled beneficiary is a parent, stepparent, foster parent, or legal guardian, subject to the availability of federal financial participation. The department shall adopt emergency regulations to define and establish criteria for assistive durable medical equipment in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(n) Family planning services are covered, subject to utilization controls.

(o) Inpatient intensive rehabilitation hospital services, including respiratory rehabilitation services, in a general acute care hospital are covered, subject to utilization controls, when either of the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery.

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(p) Adult day health care is covered in accordance with Chapter 8.7 (commencing with Section 14520).

(q) (1) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(2) All dental hygiene services provided by a registered dental hygienist in alternative practice pursuant to Sections 1768 and 1770 of the Business and Professions Code may be covered as long as they are within the scope of Denti-Cal benefits and they are necessary services provided by a registered dental hygienist in alternative practice.

(r) (1) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

(2) All providers enrolled under this subdivision shall satisfy all applicable statutory and regulatory requirements for becoming a Medi-Cal provider.

(3) This subdivision shall be implemented only to the extent funding is available under Section 14106.6.

(s) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to those persons. These services may be provided to patients placed in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, ''in-home medical care service'' includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to, support of respiratory functions.

(21) Respiratory care practitioner services as defined in Sections 3702 and 3703 of the Business and Professions Code, subject to prescription by a physician and surgeon.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home- and community-based services waiver.

(t) Home- and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for those services under waivers granted in accordance with Section 1396n of Title 42 of the United States Code. The director may seek waivers for any or all home- and community-based services approvable under Section 1396n of Title 42 of the United States Code. Coverage for those services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget

Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(u) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are available.

(v) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(w) Hospice service which is Medicare-certified hospice service is covered, subject to utilization controls. Coverage shall be available only to the extent that no additional net program costs are incurred.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

(y) Home- and community-based services approved by the United States Department of Health and Human Services for beneficiaries with a diagnosis of AIDS or ARC, who require intermediate care or a higher level of care.

Services provided pursuant to a waiver obtained from the Secretary of the United States Department of Health and Human Services pursuant to this subdivision, and which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with the waiver, and subject to the terms, conditions, and duration of the waiver. These services shall be provided to individual beneficiaries in accordance with the client's needs as identified in the plan of care, and subject to medical necessity and applicable utilization control.

The director may under this section contract with organizations qualified to provide, directly or by subcontract, services provided for in this subdivision to eligible beneficiaries. Contracts or agreements

entered into pursuant to this division shall not be subject to the Public Contract Code.

(z) Respiratory care when provided in organized health care systems as defined in Section 3701 of the Business and Professions Code, and as an in-home medical service as outlined in subdivision (s).

(aa) (1) There is hereby established in the department, a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program.

(2) The department shall seek a waiver for a program to provide comprehensive clinical family planning services as described in paragraph (8). The program shall be operated only in accordance with the waiver and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. The services shall be provided under the program only if the waiver is approved by the federal Health Care Financing Administration in accordance with Section 1396n of Title 42 of the United States Code and only to the extent that federal financial participation is available for the services.

(3) Solely for the purposes of the waiver and notwithstanding any other provision of law, the collection and use of an individual's social security number shall be necessary only to the extent required by federal law.

(4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005, and 24013, and any regulations adopted under these statutes shall apply to the program provided for under this subdivision. No other provision of law under the Medi-Cal program or the State-Only Family Planning Program shall apply to the program provided for under this subdivision.

(5) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, without taking regulatory action, the provisions of the waiver after its approval by the federal Health Care Financing Administration and the provisions of this section by means of an all-county letter or similar instruction to providers. Thereafter, the department shall adopt regulations to implement this section and the approved waiver 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 the act adding this subdivision, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

(6) In the event that the Department of Finance determines that the program operated under the authority of the waiver described in paragraph (2) is no longer cost-effective, this subdivision shall become inoperative on the first day of the first month following the issuance of a 30-day notification of that determination in writing by the Department of Finance to the chairperson in each house that considers appropriations, the chairpersons of the committees, and the appropriate subcommittees in each house that considers the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(7) If this subdivision ceases to be operative, all persons who have received or are eligible to receive comprehensive clinical family planning services pursuant to the waiver described in paragraph (2) shall receive family planning services under the Medi-Cal program pursuant to subdivision (n) if they are otherwise eligible for Medi-Cal with no share of cost, or shall receive comprehensive clinical family planning services under the program established in Division 24 (commencing with Section 24000) either if they are eligible for Medi-Cal with a share of cost or if they are otherwise eligible under Section 24003.

(8) For purposes of this subdivision, ''comprehensive clinical family planning services'' means the process of establishing objectives for the number and spacing of children, and selecting the means by which those objectives may be achieved. These means include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, natural family planning, abstinence methods, and basic, limited fertility management. Comprehensive clinical family planning services include, but are not limited to, preconception counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and followup, and informational, counseling, and educational services. Comprehensive clinical family planning services shall not include abortion, pregnancy testing solely for the purposes of referral for abortion or services ancillary to abortions, or pregnancy care that is not incident to the diagnosis of pregnancy. Comprehensive clinical family planning services shall be subject to utilization control and include all of the following:

(A) Family planning related services and male and female sterilization. Family planning services for men and women shall include emergency services and services for complications directly related to the contraceptive method, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies, and followup, consultation,

and referral services, as indicated, which may require treatment authorization requests.

(B) All United States Department of Agriculture, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies that are in keeping with current standards of practice and from which the individual may choose.

(C) Culturally and linguistically appropriate health education and counseling services, including informed consent, that include all of the following:

(i) Psychosocial and medical aspects of contraception.

(ii) Sexuality.

(iii) Fertility.

(iv) Pregnancy.

(v) Parenthood.

(vi) Infertility.

(vii) Reproductive health care.

(viii) Preconception and nutrition counseling.

(ix) Prevention and treatment of sexually transmitted infection.

(x) Use of contraceptive methods, federal Food and Drug Administration approved contraceptive drugs, devices, and supplies.

(xi) Possible contraceptive consequences and followup.

(xii) Interpersonal communication and negotiation of relationships to assist individuals and couples in effective contraceptive method use and planning families.

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

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

CHAPTER 454

An act to amend Section 130021 of the Health and Safety Code, relating to hospital facilities.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

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

SECTION 1. Section 130021 of the Health and Safety Code is amended to read:

130021. (a) All regulatory submissions to the California Building Standards Commission made by the office pursuant to this article and Article 9 (commencing with Section 130050) shall be deemed to be emergency regulations and shall be adopted as such.

(b) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

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CHAPTER 455

An act to amend Section 4000.37 of, and to add Section 5604.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

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

SECTION 1. Section 4000.37 of the Vehicle Code is amended to read:

4000.37. (a) Upon application for renewal of registration of a motor vehicle, the department shall require that the applicant submit either a form approved by the department, but issued by the insurer, as specified in paragraph (1), (2), or (3), or any of the items specified in paragraph (4), as evidence that the applicant is in compliance with the financial responsibility laws of this state.

(1) For vehicles covered by private passenger automobile liability policies and having coverage as described in subdivisions (a) and (b) of Section 660 of the Insurance Code, or policies and coverages for private passenger automobile policies as described in subdivisions (a) and (b) of that section and issued by an automobile assigned risk plan, the form shall include all of the following:

(A) The primary name of the insured covered by the policy or the vehicle owner, or both.

(B) The year, make, and vehicle identification number of the vehicle.

(C) The name, the National Association of Insurance Commissioners (NAIC) number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(D) The policy or bond number, and the effective date and expiration date of that policy or bond.

(E) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5.

(2) For vehicles covered by commercial or fleet policies, and not private passenger automobile liability policies, as described in paragraph (1), the form shall include all of the following:

(A) The name and address of the vehicle owner or fleet operator.

(B) The name, the NAIC number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(C) The policy or bond number, and the effective date and expiration date of the policy or bond.

(D) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5 and is a commercial or fleet policy. For vehicles registered pursuant to

Article 9.5 (commencing with Section 5300) or Article 4 (commencing with Section 8050) of Chapter 4, one form may be submitted per fleet as specified by the department.

(3) (A) The director may authorize an insurer to issue a form that does not conform to paragraph (1) or (2) if the director does all of the following:

(i) Determines that the entity issuing the alternate form is or will begin reporting the insurance information required under paragraph (1) or (2) to the department through electronic transmission.

(ii) Determines that use of the alternate form furthers the interests of the state by enhancing the enforcement of the state's financial responsibility laws.

(iii) Approves the contents of the alternate form as providing an adequate means for persons to prove compliance with the financial responsibility laws.

(B) The director may authorize the use of the alternate form in lieu of the forms otherwise required under paragraph (1) or (2) for a period of four years or less and may renew that authority for additional periods of four years or less.

(4) In lieu of evidence of insurance as described in paragraphs (1), (2), and (3), one of the following documents as evidence of coverage under an alternative form of financial responsibility may be provided by the applicant:

(A) An evidence form, as specified by the department, that indicates either a certificate of self-insurance or an assignment of deposit letter has been issued by the department pursuant to Sections 16053 or 16054.2.

(B) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.

(C) An evidence form that indicates coverage is provided by a charitable risk pool operating under Section 5005.1 of the Corporations Code, if the registered owner of the vehicle is a nonprofit organization that is exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code. The evidence form shall include:

(1) The name and address of the vehicle owner or fleet operator.

(2) The name and address of the charitable risk pool providing the policy for the vehicle.

(3) The policy number, and the effective date and expiration date of the policy.

(4) A statement from the charitable risk pool that the policy meets the requirements of subdivision (b) of Section 16054.2.

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

(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.

(2) A vehicle that is owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.

(3) A vehicle registration renewal application where there is a change of registered owner.

(4) A vehicle for which evidence of liability insurance information has been electronically filed with the department.

SEC. 1.5. Section 4000.37 of the Vehicle Code is amended to read:

4000.37. (a) Upon application for renewal of registration of a motor vehicle, the department shall require that the applicant submit either a form approved by the department, but issued by the insurer, as specified in paragraph (1), (2), or (3), or any of the items specified in paragraph (4), as evidence that the applicant is in compliance with the financial responsibility laws of this state.

(1) For vehicles covered by private passenger automobile liability policies and having coverage as described in subdivisions (a) and (b) of Section 660 of the Insurance Code, or policies and coverages for private passenger automobile policies as described in subdivisions (a) and (b) of that section and issued by an automobile assigned risk plan, the form shall include all of the following:

(A) The primary name of the insured covered by the policy or the vehicle owner, or both.

(B) The year, make, and vehicle identification number of the vehicle.

(C) The name, the National Association of Insurance Commissioners (NAIC) number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(D) The policy or bond number, and the effective date and expiration date of that policy or bond.

(E) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5. For the purposes of this section, policies described in Sections 11629.71 and 11629.91 of the Insurance Code are deemed to meet the requirements of Section 16056.

(2) For vehicles covered by commercial or fleet policies, and not private passenger automobile liability policies, as described in paragraph (1), the form shall include all of the following:

(A) The name and address of the vehicle owner or fleet operator.

(B) The name, the NAIC number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(C) The policy or bond number, and the effective date and expiration date of the policy or bond.

(D) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5 and is a commercial or fleet policy. For vehicles registered pursuant to Article 9.5 (commencing with Section 5300) or Article 4 (commencing with Section 8050) of Chapter 4, one form may be submitted per fleet as specified by the department.

(3) (A) The director may authorize an insurer to issue a form that does not conform to paragraph (1) or (2) if the director does all of the following:

(i) Determines that the entity issuing the alternate form is or will begin reporting the insurance information required under paragraph (1) or (2) to the department through electronic transmission.

(ii) Determines that use of the alternate form furthers the interests of the state by enhancing the enforcement of the state's financial responsibility laws.

(iii) Approves the contents of the alternate form as providing an adequate means for persons to prove compliance with the financial responsibility laws.

(B) The director may authorize the use of the alternate form in lieu of the forms otherwise required under paragraph (1) or (2) for a period of four years or less and may renew that authority for additional periods of four years or less.

(4) In lieu of evidence of insurance as described in paragraphs (1), (2), and (3), one of the following documents as evidence of coverage under an alternative form of financial responsibility may be provided by the applicant:

(A) An evidence form, as specified by the department, that indicates either a certificate of self-insurance or an assignment of deposit letter has been issued by the department pursuant to Section 16053 or 16054.2.

(B) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.

(C) An evidence form that indicates coverage is provided by a charitable risk pool operating under Section 5005.1 of the Corporations Code, if the registered owner of the vehicle is a nonprofit organization that is exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code. The evidence form shall include:

(1) The name and address of the vehicle owner or fleet operator.

(2) The name and address of the charitable risk pool providing the policy for the vehicle.

(3) The policy number, and the effective date and expiration date of the policy.

(4) A statement from the charitable risk pool that the policy meets the requirements of subdivision (b) of Section 16054.2.

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

(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.

(2) A vehicle that is owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.

(3) A vehicle registration renewal application where there is a change of registered owner.

(4) A vehicle for which evidence of liability insurance information has been electronically filed with the department.

SEC. 2. Section 5604.5 is added to the Vehicle Code, to read:

5604.5. (a) Every dealer who, upon transferring by sale, lease, or otherwise, any new or used vehicle of a type subject to registration, requires the transferee to insure the motor vehicle shall, if the required insurance policy is sold by that dealer at the time of the transfer and the policy does not insure the transferee against damages resulting from ownership or operation of the vehicle arising by reason of personal injury or death of any person, or from damage to property, notify the transferee of that fact in writing on a document other than the insurance policy. The document shall be signed by the transferee and an exact copy shall be furnished to the transferee by the dealer at the time of signature.

(b) The document required under subdivision (a) shall contain a notice in English and Spanish in at least 10-point type that reads as follows:

''INSURANCE WARNING

The motor vehicle physical damage insurance policy you are buying does not allow you to legally drive on the streets of California. Generally, in order to legally drive on the streets of California, you must either purchase a type of insurance called ''liability insurance'' or deposit a bond with the Department of Motor Vehicles. If you drive this or any other motor vehicle without liability insurance or a bond, a police officer may request evidence of liability insurance or a bond at the time of a traffic stop. If you do not have evidence of liability insurance or a bond during a traffic stop, the fines can be from several hundreds of dollars to an amount that exceeds $1,000. If you get into an accident and do not have liability insurance or a bond, you will lose your driver's license for one year. If you cause the accident and do not have liability insurance or a bond, you may have to pay the injured person yourself and these costs may be substantial.

Liability insurance as well as the insurance needed to obtain a loan for your motor vehicle may be purchased through a licensed insurance agent

or broker. The price for both types of insurance may be more or less than the price for the insurance you are being offered by the dealer. The State of California advises you to shop for insurance because prices may vary substantially.

I have read this notice and understand that I am about to buy a type of insurance that is available elsewhere and that does not allow me to drive the motor vehicle legally on the streets of California.

I also understand that if I drive on the streets of California without liability insurance or a bond, then I may be subject to severe financial penalties, including fines and personal payment for any damage to others that I may cause while driving.

(Spanish translation of the above text to be developed by the Department of Motor Vehicles and to be inserted below the above English version text)

Dated:_____ Signed:_____"

(c) The department shall also make available a translation of the Insurance Warning notice set forth in subdivision (b) in any of the languages used in the most recent statewide voter pamphlet.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 4000.37 of the Vehicle Code proposed by both this bill and SB 1403. 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 4000.37 of the Vehicle Code, and (3) this bill is enacted after SB 1403, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 456

An act to amend Section 124900 of the Health and Safety Code, relating to clinics.

[Approved by Governor September 14, 2000. Filed with
Secretary of State September 18, 2000.]

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

SECTION 1. 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. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(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, the department shall allocate available funds, for a three-year period, as follows:

(A) 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 the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinic's reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (5). The department shall seek input from stakeholders to discuss any adjustments to award levels that the

department deems reasonable such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (5). New applicants include applicants for any new site expansions by existing applicants.

(D) The department shall confer with clinic representatives to develop a funding formula for the program implemented pursuant this paragraph to use for allocations for the 2004–05 fiscal year and subsequent fiscal years.

(E) This paragraph shall become inoperative on July 1, 2004.

(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, 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.

CHAPTER 457

An act relating to the San Francisco Unified School District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. (a) During the 2000–01 fiscal year, the San Francisco Unified School District shall conduct an internal review of fiscal management and operations of the school district which shall include, but not be limited to, the following:

(1) Projection of all fund and cash balances of the San Francisco Unified School District for the current and subsequent two fiscal years, including a determination of the district's ability to meet its current and projected financial obligations.

(2) Proposals to address, or description of actions that have been taken to address, any deficiencies, errors, exceptions, or adverse findings reported by the Fiscal Crisis and Management Team, or reported in any audit of the district's fiscal management and operations during the current or previous three fiscal years.

(3) Proposals to address, or descriptions of actions that have been taken to address, any fiscal management and operations concerns that arise during the 2000–2001 fiscal year.

(b) The San Francisco Unified School District shall report to the Office of the Legislative Analyst and the Joint Legislative Audit Committee on the findings, projections and proposals of its internal review of fiscal management and operations. A first preliminary report shall be submitted within four months of the effective date of this act. A second preliminary report shall be submitted within eight months of the effective date of this act. A final report shall be submitted within 12 months of the effective date of this act.

(c) The Legislative Analyst shall review the preliminary and final reports on fiscal management and operations submitted by the San Francisco Unified School District and shall report concerns and recommendations as necessary to the appropriate policy and fiscal committees of the Legislature.

SEC. 2. The Legislature finds and declares that due to the special circumstances surrounding the San Francisco Unified School District that 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. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

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:

To immediately address the fiscal crisis in the San Francisco Unified School District it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 458

An act to add Section 17071.46 to the Education Code, relating to school facilities.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 17071.46 is added to the Education Code, to read:

17071.46. (a) When an applicant school district proposes to demolish a single story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single story building to be demolished, if all of the following conditions are met:

(1) The school at which the building demolition and replacement is to occur is operating on a multitrack year-round education schedule.

(2) The cost of the demolition and replacement is less than the total cost of providing a new school facility, including land, on a new site for the additional number of pupils housed as a result of the replacement building, as determined by the State Allocation Board.

(3) The school district will maximize the increase in pupil capacity on the site when it builds the replacement building, subject to the limits imposed on it pursuant to paragraph (5) of subdivision (a).

(4) The State Department of Education has determined that the demolition of an existing single story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

CHAPTER 459

An act to add Section 224.5 to the Education Code, relating to gender equity training, and making an appropriation therefor.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. The Legislature finds and declares the following:

(1) There are disproportionately fewer female students in advanced classes of mathematics, science, and technology in postsecondary institutions.

(2) Research demonstrates that the behaviors and attitudes of teachers in kindergarten and grades 1 to 12, inclusive, may have a disproportionate impact on the self-image and aspirations of female pupils.

(3) Studies have demonstrated also that teachers who have experienced gender equity training are more adept at enhancing the self-image of female pupils, which results in a greater number of those female pupils being as successful as male pupils in subjects such as mathematics, science, and technology.

SEC. 2. Section 224.5 is added to the Education Code, to read:

224.5. (a) There is hereby established the gender equity train-the-trainer grant program. The Superintendent of Public Instruction shall award grants from funds available for that purpose to the governing boards of school districts and county offices of education for the implementation of programs to train trainers in gender equity.

(b) The Superintendent of Public Instruction shall, with the approval of the State Board of Education, develop criteria for the grant applications . The Superintendent of Public Instruction shall select as grant recipients applicants that have clearly demonstrated all of the following:

(1) Grant moneys will result in the grantee providing ongoing gender training to all staff members, including certificated and classified staff, and maintaining a pool of knowledgeable gender equity trainers.

(2) The applicant has considered other available federal and state funding resources for gender equity training and coordinated those resources, as appropriate with a grant under this section.

(c) A grant application shall include an evaluation plan for determining the extent to which the expected benefits of the trainer program are being realized. The results of the evaluation shall be reported to the governing board of the school district or county board of education, as appropriate.

(d) The Superintendent of Public Instruction shall implement this section only in fiscal years in which sufficient funds have been appropriated for this purpose. To the extent funds are available in multiple years, the Superintendent of Public Instruction shall award grants in a manner that ensures that training is available in all parts of the state.

(e) No more than a total of one hundred thirty thousand dollars ($130,000) of state funds may be expended in any fiscal year for purposes of this section.

SEC. 3. The sum of one hundred ten thousand dollars ($110,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for purposes of awarding grants to school districts and county offices of education pursuant to the gender equity

train-the-trainer grant program established pursuant to Section 224.5 of the Education Code. Of the amount appropriated in this section, ten thousand dollars ($10,000) may be expended on state administration of the grant program.

CHAPTER 460

An act to amend Sections 69618.1, 69618.2, and 69618.3 of the Education Code, relating to student financial aid.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 69618.1 of the Education Code is amended to read:

69618.1. (a) Program participants shall meet all of the following eligibility criteria prior to selection in the program and shall continue to meet these criteria, as appropriate, during the payment periods:

(1) The participant shall be a United States citizen or eligible noncitizen.

(2) The participant shall be a California resident attending an eligible school or college.

(3) The participant shall be making satisfactory academic progress.

(4) The participant shall have complied with United States Selective Service requirements.

(5) The participant shall not owe a refund on any state or federal educational grant or have delinquent or defaulted student loans.

(b) Any person enrolled in an institution of postsecondary education and participating in the loan assumption program set forth in this article may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69618.2 upon becoming employed as a full-time faculty member at a California college or university or the equivalent of full-time service as a faculty member employed part-time at two or more California colleges or universities.

(c) (1) The commission shall award warrants to students with demonstrated academic ability and financial need, as determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(2) The applicant shall have completed a baccalaureate degree program or be enrolled in an academic program leading to a baccalaureate level or a graduate level degree.

(3) The applicant shall be currently enrolled in or admitted to a program in which he or she will be enrolled on at least a half-time basis each academic term as defined by an eligible institution. The applicant shall agree to maintain satisfactory academic progress.

(4) The applicant shall have been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(5) In order to meet the costs of obtaining a graduate degree, the applicant shall have received, or be approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the commission.

(6) The applicant shall have agreed to teach on a full-time basis at one or more accredited California colleges or universities for at least three consecutive years after obtaining a graduate degree.

(7) An applicant who teaches on less than a full-time basis may participate in the program, but is not eligible for loan repayment until that person teaches for the equivalent of a full-time academic year.

(d) A person participating in the program pursuant to this section shall not receive more than one warrant.

SEC. 2. Section 69618.2 of the Education Code is amended to read:

69618.2. The commission shall redeem an applicant's warrant and commence loan assumption payments as specified in Section 69618.3 upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a graduate degree from an accredited, participating institution.

(b) The applicant has provided the equivalent of full-time instruction at one or more regionally accredited California colleges or universities for one academic year or the equivalent.

(c) The applicant has met the requirements of the warrant and all other conditions of this article.

SEC. 3. Section 69618.3 of the Education Code is amended to read:

69618.3. The terms of the loan assumptions granted under this article shall be as follows, subject to the specific terms of each warrant:

(a) After a program participant has completed one academic year, or the equivalent of full-time teaching, at one or more regionally accredited, eligible California colleges or universities, the Student Aid Commission shall assume up to two thousand dollars ($2,000) of the

participant's outstanding liability under one or more of the designated loan programs. The initial year of eligible teaching shall begin within 10 years of receiving an initial conditional warrant from the commission.

(b) After the program participant has completed two consecutive academic years, or the equivalent of full-time teaching, at one or more regionally accredited California colleges or universities, the commission shall assume up to an additional two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to four thousand dollars ($4,000).

(c) After a program participant has completed three consecutive academic years, or the equivalent of full-time teaching, at one or more regionally accredited California colleges or universities, the commission shall assume up to an additional two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to six thousand dollars ($6,000).

CHAPTER 461

An act to add Section 60501 to the Education Code, relating to instructional materials.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 60501 is added to the Education Code, to read:

60501. A school district may review instructional materials to determine when those materials are obsolete pursuant to the rules, regulations, and procedures adopted pursuant to Section 60500 and may report the results of its review and staff recommendations at a public meeting of the school district governing board.

CHAPTER 462

An act to add Chapter 18 (commencing with Section 11700) to Part 7 of the Education Code, relating to education.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. The Legislature finds and declares that the Sweetwater Union High School District, the Southwestern Community College District, and San Diego State University are working together with local governmental officials to design and develop a full-service educational complex that maximizes the effectiveness of public funding to meet a growing demand for secondary and postsecondary enrollment in south San Diego County. Key benefits of this complex include the following:

(a) Multiple cross-age learning opportunities.

(b) Improved access to higher education in an underserved area.

(c) An integrated learning experience for pupils in grades 9 to 12, inclusive, that provides college-level classes to high school pupils as well as tutoring and mentoring roles for college and university students.

(d) Attracting developing industries and providing educational support.

(e) Providing cross-border shared educational, applied research and service opportunities and experiences.

(f) Improved use of tax funds including joint-use library facilities, common parking area and infrastructure, and shared-use of cocurricular facilities.

(g) Development of a national model for cooperative education.

SEC. 2. Chapter 18 (commencing with Section 11700) is added to Part 7 of the Education Code, to read:

CHAPTER 18. CENTER FOR INTERNATIONAL EDUCATION SYNERGY

11700. (a) It is the intent of the Legislature that the Center for International Education Synergy be established through a joint powers agreement, entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, between the Sweetwater Union High School District, the Southwestern Community College District, and San Diego State University. It is the intent of the Legislature that a joint powers agency created pursuant to the joint powers agreement own and maintain the land and facilities for the Center for International Education Synergy at the Otay Mesa Off-Campus Center.

(b) In addition to funding appropriated by the Legislature for purposes of the Center for International Education Synergy, entities participating in the establishment and operation of the center are encouraged to seek supplemental funding, including, but not limited to, funding from foundations, corporations, and other public entities.

(c) Any postsecondary education facilities and programs developed pursuant to this section shall be subject to the requirements of Section

66903 as they apply to the governing boards of public postsecondary educational institutes.

(d) The Center for International Synergy shall be established only upon approval by the California Postsecondary Education Commission based on a needs study and subsequent approval from the Department of Finance.

SEC. 3. (a) The Otay Mesa Off-Campus Center acquired through funding appropriated to San Diego State University from the General Fund pursuant to Schedule 4.1 of Item 6610-301-0001 of Section 2.00 of the Budget Act of 2000, shall be known as the Center for International Education Synergy.

(b) Notwithstanding any other provision of law, funding appropriated to San Diego State University from the General Fund pursuant to Schedule 4.1 of Item 6610-301-0001 of Section 2.00 of the Budget Act of 2000 for the acquisition of the Otay Mesa Off-Campus Center shall be deemed to be for purposes of capital outlay. The Director of Finance shall deem these funds to be supplemental to, and separate from, any existing or future capital outlay funding for the California State University, regardless of the funding source.

CHAPTER 463

An act to add Sections 17307.5 and 81133.5 to the Education Code, and to add Section 16017.5 to the Health and Safety Code, relating to facilities construction.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 17307.5 is added to the Education Code, to read:

17307.5. (a) Notwithstanding any provision of law to the contrary, including, but not limited to, Title 15 (commencing with Section 3082) of Part 4 of the Civil Code, the Department of General Services may issue a stop work order when construction work on a public school is not being performed in accordance with existing law and would compromise the structural integrity of the building, thereby endangering the public safety. The Department of General Services shall allow construction of incidental and minor nonstructural additions or nonstructural alterations without invoking its stop work authority.

(b) A school district, county superintendent of schools, county board of education, or other public board, body, or officer whose construction work on a public school is subject to a stop work order issued pursuant to subdivision (a) shall not be held liable in any action filed against the public board, body, or officer for stopping work as required by the stop work order, or for any delays caused by compliance with the stop work order, except to the extent that an error or omission by the public board, body, or officer is the basis for the issuance of the stop work order.

SEC. 2. Section 81133.5 is added to the Education Code, to read:

81133.5. (a) Notwithstanding any provision of law to the contrary, including, but not limited to, Title 15 (commencing with Section 3082) of Part 4 of the Civil Code, the Department of General Services may issue a stop work order when construction work on a community college is not being performed in accordance with existing law and would compromise the structural integrity of the building, thereby endangering the public safety. The Department of General Services shall allow construction of incidental and minor nonstructural additions or nonstructural alterations without invoking its stop work authority.

(b) A community college district or other public board, body, or officer whose construction work on a community college is subject to a stop work order issued pursuant to subdivision (a) shall not be held liable in any action filed against the public board, body, or officer for stopping work as required by the stop work order, or for any delays caused by compliance with the stop work order, except to the extent that an error or omission by the public board, body, or officer is that basis for the issuance of the stop work order.

SEC. 3. Section 16017.5 is added to the Health and Safety Code, to read:

16017.5. (a) Notwithstanding any provision of law to the contrary, including, but not limited to, Title 15 (commencing with Section 3082) of Part 4 of the Civil Code, the Department of General Services may issue a stop work order when construction work on an essential services facility is not being performed in accordance with existing law and would compromise the structural integrity of the building, thereby endangering the public safety. The Department of General Services shall allow construction of incidental and minor nonstructural additions or nonstructural alterations without invoking its stop work authority.

(b) A public board, body, or officer whose construction work on an essential services facility is subject to a stop work order issued pursuant to subdivision (a) shall not be held liable in any action filed against the public board, body, or officer for stopping work as required by the stop work order, or for any delays caused by compliance with the stop work

order, except to the extent that an error or omission by the public board, body, or officer is the basis for the issuance of the stop work order.

CHAPTER 464

An act to add and repeal Section 33054 of the Education Code, relating to charter schools.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 33054 is added to the Education Code, to read:

33054. (a) The governing board of a charter school may request, and the State Board of Education may approve, a waiver of any otherwise applicable provisions of this code pursuant to this article. To be eligible to request a waiver, a charter school shall submit its application for a waiver to its chartering authority. The governing board of the chartering authority shall hold the public hearing on the waiver request no later than 90 days following receipt of the request. If the chartering authority fails to hold the public hearing within the 90 days, the charter school shall hold a public hearing prior to submitting the waiver request directly to the State Board of Education. If the chartering authority is a school district or county board of education, it shall prepare a summary of the public hearing to be forwarded with the waiver request to the State Board of Education. If the school district or county board of education recommends against approval of the waiver request, it shall set forth the reasons for its disapproval in written documentation that shall be forwarded to the state board.

(b) For purposes of this article, a charter school shall be deemed to be a ''school district'' that is eligible to submit a waiver application pursuant to this section.

(c) A charter school shall meet the same criteria that a school district is required to meet when it requests a waiver, except that the chartering authority shall conduct the public hearing, as required pursuant to subdivision (a).

(d) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. The addition of Section 33054 to the Education Code made by this act does not expand upon nor diminish the authority of the State

Board of Education to issue waivers pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 of the Education Code.

CHAPTER 465

An act to amend Section 48293 of the Education Code, relating to truants.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 48293 of the Education Code is amended to read:

48293. (a) Any parent, guardian, or other person having control or charge of any pupil who fails to comply with this chapter, unless excused or exempted therefrom, is guilty of an infraction and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than one hundred dollars ($100).

(2) Upon a second conviction, by a fine of not more than two hundred fifty dollars ($250).

(3) Upon a third or subsequent conviction, if the person has willfully refused to comply with this section, by a fine of not more than five hundred dollars ($500). In lieu of imposing the fines prescribed in paragraphs (1) (2), and (3), the court may order the person to be placed in a parent education and counseling program.

(b) A judgment that a person convicted of an infraction be punished as prescribed in subdivision (a) may also provide for the payment of the fine within a specified time or in specified installments, or for participation in the program. A judgment granting a defendant time to pay the fine or prescribing the days of attendance in a program shall order that if the defendant fails to pay the fine, or any installment thereof, on the date that it is due, or fails to attend a program on a prescribed date, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(c) Until January 1, 2005, the court may also order that the person convicted of the violation of subdivision (a) immediately enroll the pupil in the appropriate school or educational program and provide proof of enrollment to the court. Willful violation of an order under this subdivision is punishable as civil contempt with a fine of up to one

thousand dollars ($1,000). An order of contempt under this subdivision shall not include imprisonment.

(d) The Legislative Analyst, in consultation with the California District Attorney's Association and the State Department of Education, shall develop a report to be submitted to the Legislature on or before January 1, 2004, concerning the implementation of this subdivision.

CHAPTER 466

An act to add Section 47611.3 to the Education Code, relating to charter schools.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 47611.3 is added to the Education Code, to read:

47611.3. (a) At the request of a charter school, a school district or county office of education that is the chartering authority of a charter school shall create any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System. The county superintendent of schools, employing agency, or school district that reports to those systems pursuant to Section 23004 of this code or Section 20221 of the Government Code shall submit the required reports on behalf of the charter school. The school district or county office of education may charge the charter school for the actual costs of the reporting services.

(b) As a condition of creating and submitting reports for the State Teachers' Retirement System and the Public Employees Retirement System, the school district or county office of education shall not require a charter school to purchase payroll processing services from the chartering authority. Information submitted on behalf of the charter school to the State Teachers' Retirement System, the Public Employees' Retirement System, or both, shall be in a format conforming to the requirements of those systems.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service

mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 467

An act to repeal and add Chapter 11.3 (commencing with Section 66940) of Part 40 of the Education Code, relating to distance learning.

[Approved by Governor September 15, 2000. Filed with Secretary of State September 18, 2000.]

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

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

(a) The California Postsecondary Education Commission (CPEC) and other observers have estimated that a minimum of 714,000 additional students, in excess of the number of those enrolled in 1998, will need to be educated by California's colleges and universities by the year 2010.

(b) The nature of instruction and its delivery in postsecondary education, as well as new informational technologies and other related innovations, can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with learning, education, or training needs. Learners, including students seeking basic or technical skills, initial postsecondary education experience, and those limited by time and place constraints, can benefit from nontraditional postsecondary education opportunities and appropriate support services.

(c) The need for high quality, nontraditional, technology-based education opportunities is great, as is the need for measures of educational progress and competency attainment that are valid and widely accepted; the advancement of these measures of progress and competency attainment will be more likely through the coordinated efforts of agencies and institutions working with state assistance, statewide coordination, and oversight.

SEC. 2. Chapter 11.3 (commencing with Section 66940) of Part 40 of the Education Code is repealed.

SEC. 3. Chapter 11.3 (commencing with Section 66940) is added to Part 40 of the Education Code, to read:

CHAPTER 11.3. THE CALIFORNIA DISTANCE LEARNING POLICY

66940. There is hereby established the California Distance Learning Policy, which sets forth the guiding goal and principles for the utilization of technology in California postsecondary education.

66941. (a) The Legislature finds and declares that access to a high quality education is the primary goal for the use of educational technology in higher education. All students in California's public schools and colleges and all adults in the state shall have access to educational opportunities for which they are qualified, regardless of their income level, geographic location, or the size of the school they attend.

(b) Pursuant to its statutory planning and coordination functions and responsibilities identified in Section 66900, the California Postsecondary Education Commission shall convene an intersegmental working group to determine state funding priorities consistent with the institutional missions of the systems of higher education.

(c) The intersegmental working group shall observe all of the following principles to guide the development of priorities and the proposed expenditure of state revenues on technology infrastructure and applications:

(1) Development of a statewide infrastructure that provides compatible connectivity between all levels of education to reduce redundancy and increase efficiency.

(2) Adherence to nationally and internally accepted protocols and standards.

(3) Assurance that the standards for course and program quality applied to distance education are rigorous in meeting accreditation standards, Universal Design Standards, and standards currently applied to traditional classroom instruction at higher educational institutions in the areas of course content, student achievement levels, and coherence of the curriculum.

(4) Collaboration between the private sector and educational institutions in the availability and use of technology in low-performing schools and underserved areas.

(5) Collaboration across departments, institutions, states, and countries in the use of technology.

(6) Use of technology to contain costs, improve student outcomes, and enhance quality in instructional and noninstructional functions, such as student services, libraries, and administrative support.

(d) The intersegmental working group shall be composed of representatives from public, elementary and secondary education, the California State University, the California Community Colleges, the University of California, independent accredited universities and

colleges, state approved schools and colleges, private sector providers of distance education, the Office of the Secretary of Education, and the private sector.

(e) The commission shall facilitate the development of statewide funding priorities for technology in higher education, and shall forward the recommendations of the working group to the Legislature and the Governor on or before August 1, 2002.

CHAPTER 468

An act to add Section 25118 to the Corporations Code, relating to usury.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 25118 is added to the Corporations Code, to read:

25118. (a) An evidence of indebtedness issued by an entity or guaranteed by an entity that is an affiliate (as defined in Section 150) of the borrower that, on the day the evidence of indebtedness issued or guaranty is first issued or entered into, has total assets of at least two million dollars ($2,000,000) according to its then most recent financial statements, and the purchasers or holders thereof, shall be exempt from the usury provisions of the Constitution. The financial statements referred to in the preceding sentence shall be:

(1) As of a date not more than 90 days prior to the date the evidence of indebtedness or guaranty is first issued or entered into.

(2) Prepared:

(A) In accordance with generally accepted accounting principles and, if the entity has consolidated subsidiaries, on a consolidated basis.

(B) In accordance with the rules and requirements of the Securities and Exchange Commission, whether or not required by law to be prepared in accordance with those rules and requirements.

(b) Any one or more evidences of indebtedness, and the purchasers or holders thereof, shall be exempt from the usury provisions of the Constitution if either of the following applies:

(1) The evidences of indebtedness aggregate at the time of issuance at least three hundred thousand dollars ($300,000) in original face amount, or, if the evidences of indebtedness are purchased with original

issue discount, they are purchased for an aggregate purchase price at the time of issuance of at least three hundred thousand dollars ($300,000).

(2) The evidences of indebtedness are issued pursuant to a bona fide written commitment for the lending to the issuer of at least three hundred thousand dollars ($300,000), or the provision of a line of credit to the issuer in a principal amount of at least three hundred thousand dollars ($300,000). The exemption provided by this paragraph shall not be affected by a subsequent event of default or other event not in the lender's control that has relieved or may relieve the lender from its commitment.

(c) Any evidence of indebtedness described in subdivisions (a) or (b), and the purchasers or holders thereof, shall be entitled to the benefits of the usury exemption contained in this section regardless of whether, at any time after the evidence of indebtedness or guaranty upon which the exemption is based is first issued or entered into, the evidence of indebtedness or guaranty is determined by a court of competent jurisdiction not to be a ''security.''

(d) This section creates and authorizes a class of transactions and persons pursuant to Section 1 of Article XV of the California Constitution.

(e) This section shall not apply to:

(1) Any evidence of indebtedness issued or guaranteed (if the guaranty is part of the consideration for the indebtedness) by an individual, a revocable trust having one or more individuals as trustors, or a partnership in which, at the time of issuance, one or more individuals are general partners.

(2) Any transaction subject to the limitation on permissible rates of interest set forth in paragraph (1) of the first sentence of Section 1 of Article XV of the California Constitution.

(f) The exemptions created by this section shall only be available in a transaction which meets either of the following criteria:

(1) The lender and either the issuer of the indebtedness or the guarantor, as the case may be, or any of their respective officers, directors, or controlling persons, or, if any party is a limited liability company, the managers as appointed or elected by the members, have a preexisting personal or business relationship.

(2) The lender and the issuer, or the lender and the guarantor, by reason of their own business and financial experience or that of their professional advisers, could reasonably be assumed to have the capacity to protect their own interests in connection with the transaction.

(g) For purposes of this section, ''preexisting personal or business relationship'' and ''capacity to protect their own interests in connection with the transaction'' as used in subdivision (f) shall have the same meaning as, and be determined according to the same standards as, specified in paragraph (2) of subdivision (f) of Section 25102 and its

implementing regulations provided that, solely with respect to this section, a lender or purchaser who is represented by counsel may designate that person as its professional adviser whether or not that person is compensated by the issuer or guarantor, as long as that person has a bona fide attorney-client relationship with the lender or purchaser.

(h) This section shall not exempt any person from the application of the California Finance Lenders Law (Division 9 (commencing with Section 22000) of the Financial Code).

SEC. 2. It is the intent of the Legislature that the standards contained in Section 1 of this act are approved with respect to commercial loans only. They do not reflect any judgment by the Legislature regarding loans for personal, family, or household purposes. No inference should be drawn from those standards as to the appropriate treatment of any loans other than loans for commercial purposes that qualify for the exemption provided therein.

It is also the intent of the Legislature that the exemption contained in Section 1 of this act shall not affect the application of any other provision of law that (1) requires any person in connection with a transaction described in Section 1 to comply with applicable licensing requirements, (2) protects parties to a transaction described in Section 1 from unfair, unlawful, or deceptive acts or practices, or (3) affects the availability of the exemption provided by Section 1 to a successor in interest of the originating lender of a loan described therein.

CHAPTER 469

An act to amend Section 33334.27 of the Health and Safety Code, relating to housing and community development.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 33334.27 of the Health and Safety Code is amended to read:

33334.27. (a) The Legislature finds and declares all of the following:

(1) The retention of the Travis Air Force Base within the County of Solano is crucial to the economic health of its surrounding region. If the closure of the Travis Air Force Base is not averted by using the powers set forth in this section, it will cause serious economic hardship throughout the State of California of an annual multibillion dollar

expenditure budget, increased unemployment, deterioration of properties and land use, and undue disruption of the lives and activities of the people of the area. This concern is based in large part on an inadequate supply of affordable housing for low- and moderate-income persons and families employed by or serving at the Travis Air Force Base.

(2) To avoid serious economic hardship and accompanying blight, it is necessary to enact the act which adds this section, which shall apply only within the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville, and which is adopted only for the purpose of retaining the Travis Air Force Base. In enacting this act, it is the policy of the Legislature to assist the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville in their attempt to preserve the affected military facilities and installations for their continued use as the Travis Air Force Base, and to protect and enhance these vital facilities by, among other things, ensuring an adequate supply of affordable housing in proximity to the Travis Air Force Base.

(3) The cost and availability of land, construction costs, geophysical and environmental constraints, household incomes, the market for affordable housing, commuting patterns, and fiscal and other related factors make it infeasible for a single community acting alone, limited to its own resources, to provide the entire supply of affordable housing necessary to ensure the retention of the Travis Air Force Base. It is, therefore, necessary and appropriate that the agencies of the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville be permitted, under specified conditions, to pool their resources to retain the Travis Air Force Base. It is necessary that those agencies possess the limited ability to use their tax-increment moneys outside their individual communities for these limited purposes.

(b) The agencies for the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville may create a separate joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, which joint powers agency shall have, and exercise, powers of an agency within the territorial jurisdiction of the City of Fairfield, Suisun City, the City of Vacaville or the unincorporated area of the County of Solano to provide housing for the retention of the Travis Air Force Base. Notwithstanding any provision of existing law, the joint powers agency shall not have the power to levy any tax. All land use, planning, and development decisions with regard to real property within the City of Fairfield, the City of Suisun City, the City of Vacaville or the unincorporated area of the County of Solano which is to be developed or redeveloped by the joint powers agency pursuant to this section shall continue to be under the control and jurisdiction of the legislative body or planning commission, as

applicable, of the City of Fairfield, the City of Suisun City, the City of Vacaville, or the unincorporated area of the County of Solano.

(c) The powers of the joint powers agency shall be used in accordance with a ''Travis Air Force Base Retention Program'' to be formulated and approved by the joint powers agency consistent with this section. The Travis Air Force Base Retention Program shall not be implemented unless and until the legislative bodies of the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville each adopts an ordinance approving the Travis Air Force Base Retention Program. The expenditure of tax-increment moneys outside of the territorial jurisdiction of each agency involved, as contemplated by that program, as well as the program itself, shall, upon the adoption of each ordinance, be deemed to be a part of each redevelopment plan for each redevelopment project generating the tax-increment moneys to be expended in carrying out the program, as if each redevelopment plan had been amended to include the program and those expenditures. However, in adopting the ordinance, 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. The joint powers agency may amend the Travis Air Force Base Retention Program from time to time. The procedure for amending the ordinance required by this section shall be the same as for adopting the ordinance under this section.

(d) As used in this section, ''tax-increment moneys'' shall mean all tax-increment moneys allocated to an agency, including, but not limited to, tax-increment moneys deposited in an agency's Low and Moderate Income Fund.

(e) Notwithstanding subdivision (c) of Section 33334.3 or Section 33670, an agency may use tax-increment moneys to develop housing outside of the territorial jurisdiction of the agency pursuant to this section and consistent with the provisions of a Travis Air Force Base Retention Program approved and adopted pursuant to this section, if each agency involved finds that no other reasonable means of financing this housing are available in sufficient amount. The Legislature finds and declares that the use of tax-increment funds pursuant to this section shall be conclusively deemed to be a benefit to the project area in which those funds were generated.

(f) Each of the following conditions shall be met before an agency may use tax-increment moneys to develop housing outside its territorial jurisdiction pursuant to this section or to lend, pay, or advance these funds to the joint powers agency pursuant to this section:

(1) The community in which the agency is located must have met, in the current or previous housing element cycle, at least 50 percent of its existing share of the region's affordable housing needs, as defined in

Section 65684 of the Government Code, for very low income households.

(2) The community in which the housing will be developed shall be the City of Fairfield, the City of Suisun City, or the City of Vacaville.

(3) The joint powers agency shall enter into a mutually acceptable, binding agreement with the City of Fairfield, the City of Suisun City, or the City of Vacaville where the housing will be developed. The contract shall specify the terms and conditions under which the housing will be developed. The contract shall specify the responsibilities of the joint powers agency and the City of Fairfield, the City of Suisun City, or the City of Vacaville.

(4) The contract shall contain a provision that allows any taxpayer or resident of the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville, the Attorney General, or any other interested person to enforce the terms of the contract.

(5) (A) Moneys from an agency's Low and Moderate Income Housing Fund shall be used in the City of Fairfield, the City of Suisun City, or the City of Vacaville to pay for the costs of developing housing as permitted by subdivision (e) of Section 33334.2.

(B) Notwithstanding subparagraph (A), money from a Low and Moderate Income Housing Fund shall not be used for offsite improvements.

(6) (A) The joint powers agency or the City of Fairfield, the City of Suisun City, or the City of Vacaville shall not spend money from a Low and Moderate Income Housing Fund in any way which is inconsistent with the requirements of Section 33334.3.

(B) Notwithstanding subdivision (e) of Section 33334.3, the joint powers agency, the City of Fairfield, the City of Suisun City, or the City of Vacaville or the agency of the City of Fairfield, Suisun City, the City of Vacaville, or the County of Solano shall not spend money from a Low and Moderate Income Housing Fund for administrative costs, salaries, or wages, except for legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of the development of the housing which is authorized by this section.

(7) Each of the agencies whose Low and Moderate Income Housing Fund moneys are to be expended pursuant to this section shall be in compliance with all applicable replacement housing requirements of this part.

(8) The maximum aggregate number of dwelling units developed with moneys transferred to the joint powers agency from the Low and Moderate Income Housing Funds of its member agencies pursuant to this section shall be no more than 500 dwelling units.

(9) No agency shall transfer to the joint powers agency pursuant to this section an amount more than:

(A) Fifty percent of the balance of its Low and Moderate Income Housing Fund moneys reflected in the accounts of the agency on June 30, 1997.

(B) Fifty percent of the total amount required by Sections 33334.2 and 33334.6 to be set aside by the agency in its Low and Moderate Income Housing Fund for all redevelopment projects for each fiscal year commencing with the 1997–98 fiscal year and for each fiscal year thereafter.

(10) The County of Solano and the Cities of Fairfield, Suisun City, and Vacaville shall each have a complete and adequate general plan, including a 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.

(g) (1) At least 60 days before the date proposed for the approval of the contract pursuant to subdivision (f), the joint powers agency shall send the draft contract to the department for its review, comment, and recommendation.

(2) Upon receipt of a draft contract, the department shall solicit public comments from persons and organizations experienced in affordable housing issues. After soliciting and considering these public comments, the department shall review the draft contract for its consistency with the requirements of this section. The department shall report its written findings and its recommendations to the joint powers agency and the Cities of Fairfield, Suisun City, and Vacaville, and the County of Solano, within 45 days of receiving the draft contract. The department may charge and the joint powers agency shall pay a fee that shall not exceed the department's estimated reasonable costs of complying with this section. The joint powers agency may pay this fee from Low and Moderate Income Housing Fund moneys.

(3) If the department finds that the draft contract is not consistent with the requirements of this section, the department may recommend changes to the draft contract to achieve that consistency. The department shall recommend that the joint powers agency approve the draft contract, approve the draft contract after making changes, or not approve the draft contract.

(4) If the department recommends against the approval of the draft contract, the joint powers agency shall not approve the contract. If the department recommends changes to the draft contract before its approval, the joint powers agency shall not approve the contract unless it makes the changes recommended by the department.

(h) The housing units to be built within the City of Fairfield, the City of Suisun City, or the City of Vacaville with Low and Moderate Income Housing Fund moneys transferred pursuant to this section shall be

affordable to lower income households or very low income households, as those terms are defined in Sections 50052.5 and 50053.

(i) The joint powers agency shall not receive more than an aggregate total of two million dollars ($2,000,000) from the other agencies pursuant to this section.

(j) (1) If any housing occupied by persons or families of very low, low, or moderate income is destroyed by the development of housing pursuant to the authority of this section, displaced residents from the destroyed housing shall be provided with relocation benefits which result in the additional replacement housing payment required by Section 7264 of the Government Code, enabling the person to lease or rent a comparable replacement dwelling for a period not to exceed 96 months, instead of 48 months as required by Section 7264 of the Government Code.

(2) If any housing occupied by persons or families of very low, low, or moderate income is destroyed by the development of housing pursuant to the authority of this section, the destroyed housing shall be replaced with housing of the same or greater size and shall be affordable in direct proportion to the displaced income groups, and shall be provided simultaneously with the housing developed pursuant to the authority of this section.

(k) In the event the Travis Air Force Base relocates from its current location prior to the substantial commencement of construction of the housing authorized to be developed pursuant to this section, all moneys from the Low and Moderate Income Housing Funds which have been transferred to the joint powers agency pursuant to this section shall be returned by the joint powers agency to the agencies that originally transferred the funds in ratable portion to the proportion of the transferred funds that were transferred from each agency. However, nothing in this subdivision shall require the joint powers agency to return any funds that have been expended or committed for the purposes of the joint powers agency or which are necessary to pay any indebtedness of the joint powers agency.

(*l*) The joint powers agency established pursuant to this section shall require, as a condition precedent to the expenditure of any tax-increment moneys to carry out the Travis Air Force Base Retention Program, that the real property on which the housing is developed pursuant to that program shall be burdened with covenants running with the land for the period and with the substance required by Section 33334.3. The joint powers agency shall also require that these covenants include a mechanism that shall ensure the continued availability of the dwelling units for very low or low-income persons and families for the period required by Section 33334.3 in the event the Travis Air Force Base relocates or, for any other reason, no longer uses these housing units, or,

in the absence of this continued availability, implements a procedure that protects the joint powers agency's investment of moneys from Low and Moderate Income Housing Funds and provides for the pro rata return of the sales proceeds to the Low and Moderate Income Housing Funds of those agencies expending these funds to carry out the Travis Air Force Base Retention Program.

(m) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2006, deletes or extends that date, or unless tax-increment moneys have, prior to that date, been received by the joint powers agency, in which case the date of repeal of this section shall be extended until the time that the joint powers agency shall expend these funds in accordance with this section. This repeal shall not affect any contract or covenant which shall have been entered into prior to January 1, 2006, to implement this section, and all contracts and covenants shall continue after the repeal date in full force and effect in accordance with their terms.

CHAPTER 470

An act to amend Section 1871.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 1871.2 of the Insurance Code is amended to read:

1871.2. (a) Any insurer who, in connection with any insurance contract or provision of contract described in Section 108, prints, reproduces, or furnishes a form to any person upon which that person gives notice to the insurer or makes claim against it by reason of accident, injury, death, or other noticed or claimed loss, or on a rider attached thereto, shall cause to be printed or displayed in comparative prominence with other content the statement: ''Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.'' This statement shall be preceded by the words: ''For your protection California law requires the following to appear on this form'' or other explanatory words of similar meaning.

(b) This section is not applicable to a contract of reinsurance as defined in Section 620.

CHAPTER 471

An act to add Section 798.13 to the Civil Code, to amend Sections 53084 and 65585 of the Government Code, and to amend Sections 17031, 17920.3, 17951, 17958.2, 17958.8, 17964, 18008.5, 18063, 18080.1, 33426.7, 50066, 50911, 51000.1, and 51005 of, to amend the heading of Chapter 5 (commencing with Section 51100) of Part 3 of Division 31 of, to amend the heading of Part 3 (commencing with Section 50900) of Division 31 of, to add Section 18307 to, to repeal Section 51253 of, to repeal Article 13 (commencing with Section 33460) of Chapter 4 of, and Article 3 (commencing with Section 33492.60) of Chapter 4.5 of, Part 1 of Division 24 of, and to repeal Chapter 5.5 (commencing with Section 50640) of Part 2 of Division 31 of, the Health and Safety Code, relating to housing and community development.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 798.13 is added to the Civil Code, to read:

798.13. (a) This chapter does not apply to any area owned, operated, or maintained by the state for the purpose of providing employee housing or space for a mobilehome owned or occupied by an employee of the state.

(b) Notwithstanding subdivision (a), a state employer shall provide the occupant of a privately owned mobilehome that is situated in an employee housing area owned, operated, or maintained by the state, and that is occupied by a state employee by agreement with his or her state employer and subject to the terms and conditions of that state employment, with a minimum of 60-days' notice prior to terminating the tenancy for any reason.

SEC. 1.2. Section 53084 of the Government Code is amended to read:

53084. (a) Notwithstanding any other provision of this part, a local agency shall not provide any form of financial assistance to an automobile dealership or big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, that is relocating from the territorial jurisdiction of one local agency to the territorial jurisdiction of another local agency but within the same

market area, unless the legislative body of the local agency to which the relocation will occur offers the contract to the local agency from which the relocation is occurring pursuant to this section.

(b) If the automobile dealership or big box retailer is relocating within the same county, including both incorporated and unincorporated territory, or to an adjacent county or a city within an adjacent county, the local agency proposing to offer financial assistance shall prepare a report that describes the market area for the automobile dealership or big box retailer that is relocating. The report shall include the information required to be contained in the resolution pursuant to subdivision (e). The report shall refer to and cite the independent literature, trade publications, and recognized and established business policies and practices describing the market area for the automobile dealership or big box retailer that is relocating. The report shall conclude that the relocation is occurring either within the same market area or outside the same market area. The report shall be available to the public not later than 45 days prior to the date of the public hearing required by subdivision (d). In addition, the notice of the public hearing and the report shall be mailed to the local agency from which the relocation is occurring.

(c) (1) If the report prepared pursuant to subdivision (b) concludes that the automobile dealership or big box retailer is relocating within the same market area, at least 45 days prior to the public hearing required pursuant to subdivision (d), the agency shall notify the local agency from which the relocation is occurring of its intent to give financial assistance and shall send to that local agency a contract that has been approved by a two-thirds vote of the legislative body of the local agency and that apportions the sales tax generated from the automobile dealership or big box retailer after the relocation between the two local agencies in the following manner:

(A) The annual amount of assistance shall be subtracted from the annual sales tax.

(B) The difference shall be divided equally between the two local agencies for the first 10 fiscal years following the relocation. However, in no event shall the local agency from which the relocation is occurring receive more sales tax than it received from the automobile dealership or big box retailer in the fiscal year prior to the relocation.

(C) After the first 10 fiscal years following the relocation, the contract shall terminate and the apportionment shall end unless the contract is extended by both local agencies.

(2) The local agency from which the relocation is occurring shall have 30 days after receipt of the contract to approve the contract by enacting a resolution or ordinance approved by a two-thirds vote of its legislative body.

(d) Prior to a local agency giving any financial assistance to an automobile dealership or big box retailer that is relocating, the agency shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the local agency at least once per week for at least three successive weeks, as specified in Section 6063 of the Government Code, prior to the hearing.

(e) The resolution approving financial assistance shall do all of the following:

(1) Identify the present name and, if different, the former name of the relocating automobile dealership or big box retailer.

(2) Identify the address, including the local agency, from which the automobile dealership or big box retailer has moved or will move.

(3) Identify the address, including the local agency, to which the automobile dealership or big box retailer will move.

(4) Contain one of the following findings:

(A) That the automobile dealership or big box retailer is not relocating within the same market area.

(B) That the automobile dealership or big box retailer is relocating within the same market area but that a contract containing the terms specified in subdivision (c) has been approved by the local agency's legislative body, and offered to the local agency from which the relocation has occurred, which has approved the agreement, entered into another agreement acceptable to both local agencies, or has not accepted the proposed contract within the 30-day period.

These findings shall be final and conclusive as to all persons except for the automobile dealership or big box retailer that is the subject of the findings and the community from which the relocation has occurred, all of which may bring an action to challenge these findings.

(f) As used in this section, the following terms have the following meaning:

(1) ''Big box retailer'' means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) ''Local agency'' means a chartered or general law city, a chartered or general law county, or a city and county. ''Local agency'' does not include a redevelopment agency that is subject to Section 33426.7 of the Health and Safety Code.

(3) ''Financial assistance'' includes, but is not limited to, any of the following:

(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the automobile dealership or big box retailer.

(C) The sale or lease of real property at a cost that is less than fair market value.

(D) Payment for, forgiveness of, or reduction of fees.

(4) (A) ''Market area'' means a geographical area that is described in independent and recognized commercial trade literature, recognized and established business or manufacturing policies or practices, or publications of recognized independent research organizations as being an area that is large enough to support the location of the specific automobile dealership or the specific big box retailer that is relocating.

(B) With respect to an automobile dealership, a ''market area'' shall not extend further than 40 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the automobile dealership is relocating and ending at the location to which the automobile dealership is relocating.

(C) With respect to a big box retailer, a ''market area'' shall not extend further than 25 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the big box retailer is relocating and ending at the location to which the big box retailer is relocating.

(5) ''Relocating'' means the closing of an automobile dealership or big box retailer in one location and the opening of an automobile dealership or big box retailer in another location within a 365-day period when a person or business entity has an ownership interest in both the automobile dealership or big box retailer that has closed or will close and the one that is opening. ''Relocating'' does not mean and shall not include the closing of an automobile dealership or big box retailer because the automobile dealership or big box retailer has been or will be acquired or has been or will be closed as a result of the use of eminent domain.

(g) This section does not apply to local agency assistance in the construction of public improvements that serve all or a portion of the jurisdiction of the local agency and that are not required to be constructed as a condition of approval of the automobile dealership or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the automobile dealership or big box retailer.

(h) Notwithstanding Section 7550.5, on or before January 1, 2004, the California Research Bureau shall report to the Legislature and the Governor regarding the implementation of this section. The report shall identify the reports prepared pursuant to subdivision (b), the contracts

offered pursuant to subdivision (c), and the resolutions approved pursuant to subdivision (e). The report may include any additional information that the bureau finds relevant. The report may also include recommendations for legislative action, including, but not limited to, amending, or extending the repeal date of, this section.

(i) This section shall not apply to any financial assistance provided by a local agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the local agency and an automobile dealership, big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

(j) 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 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with the requirements of this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with the requirements of this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with the requirements of this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

SEC. 3. Section 17031 of the Health and Safety Code is amended to read:

17031. (a) (1) The operator of employee housing on a dairy farm that meets the requirements of Section 32505 of the Food and Agricultural Code, consisting only of permanent single-family employee housing, may request an exemption from the requirement of obtaining an annual permit to operate. The employee housing camp operator shall notify each tenant of the permanent single-family employee housing in writing that such an exemption is being requested. The request for exemption shall be made in writing to the enforcement agency.

(2) An exemption shall be granted to permanent single-family employee housing unless the housing is in violation of the State Housing Law, building standards published in the California Building Standards Code relating to employee housing, or the other regulations adopted pursuant to the State Housing Law in a manner that materially affects the health and safety of the occupants, or in the case of a mobilehome or manufactured home, is in violation of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401, et seq.) or regulations of the department pursuant to Section 18028 in a manner that materially affects the health and safety of the occupants, or has been found in violation of this chapter within the previous two years.

(b) Whenever the enforcement agency issues an exemption from the requirement of obtaining a permit to operate, it shall make written findings indicating the reasons for issuing the exemption. Exemptions shall be reviewed annually by the enforcement agency.

The findings of the enforcement agency shall include, but not be limited to, all of the following information:

(1) The year the dwellings in the employee housing were constructed.

(2) The number of years the employee housing has been operated with a valid permit to operate.

(3) The number and character of any complaints received during the time the employee housing has been operating either with or without a permit.

(4) Any violations cited in the last inspection of the employee housing.

(c) Failure to maintain any permanent housing in accordance with the State Housing Law, or, in the case of mobilehomes or manufactured homes, failure to maintain these mobilehomes or manufactured homes in accordance with the provisions of Part 2.1 (commencing with Section 18200) of Division 13, and the regulations adopted pursuant thereto, in a manner which materially affects the health and safety of the occupants, shall be considered cause for revocation of an exemption.

SEC. 4. Section 17920.3 of the Health and Safety Code is amended to read:

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:

(1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.

(2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.

(3) Lack of, or improper kitchen sink.

(4) Lack of hot and cold running water to plumbing fixtures in a hotel.

(5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

(6) Lack of adequate heating.

(7) Lack of, or improper operation of required ventilating equipment.

(8) Lack of minimum amounts of natural light and ventilation required by this code.

(9) Room and space dimensions less than required by this code.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by the health officer.

(13) General dilapidation or improper maintenance.

(14) Lack of connection to required sewage disposal system.

(15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(b) Structural hazards shall include, but not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceilings and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the

fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(*l*) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate structural resistance to horizontal forces.

''Substandard building'' includes a building not in compliance with Section 13143.2.

However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

SEC. 5. Section 17951 of the Health and Safety Code is amended to read:

17951. (a) The governing body of any county or city, including a charter city, may prescribe fees for permits, certificates, or other forms or documents required or authorized by this part or rules and regulations adopted pursuant to this part.

(b) The governing body of any county or city, including a charter city, or fire protection district, may prescribe fees to defray the costs of enforcement required by this part to be carried out by local enforcement agencies.

(c) The amount of the fees prescribed pursuant to subdivisions (a) and (b) shall not exceed the amount reasonably required to administer or process these permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes. The fees shall be imposed pursuant to Section 66016 of the Government Code.

(d) (1) The provisions of this part are not intended to prevent the use of any manufactured home, mobilehome, material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by the California Building Standards Code or this part, provided that this alternate has been approved by the building department.

(2) The building department of any city or county may approve an alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the California Building Standards Code or this part in performance, safety, and for the protection of life and health.

(3) The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the California Building Standards Code, or the other rules and regulations promulgated pursuant to this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or the owner's agent by an approved testing agency selected by the owner or the owner's agent.

SEC. 6. Section 17958.2 of the Health and Safety Code is amended to read:

17958.2. (a) Notwithstanding Section 17958, regulations of the department adopted for limited-density owner-built rural dwellings, which are codified in Article 8 (commencing with Section 74) of Subchapter 1 of Chapter 1 of Title 25 of the California Code of Regulations, shall not become operative within any city or county unless

and until the governing body of the city or county makes an express finding that the application of those regulations within the city or county is reasonably necessary because of local conditions and the city or county files a copy of that finding with the department.

(b) In adopting ordinances or regulations for limited-density owner-built rural dwellings, a city or county may make any changes or modifications in the requirements contained in Article 8 (commencing with Section 74) of Subchapter 1 of Chapter 1 of Title 25 of the California Code of Regulations that it determines are reasonably necessary because of local conditions, if the city or county files a copy of the changes or modifications and the express findings for the changes or modifications with the department. No change or modification of that type shall become effective or operative for any purpose until the finding and the change or modification has been filed with the department.

SEC. 7. Section 17958.8 of the Health and Safety Code is amended to read:

17958.8. Local ordinances or regulations governing alterations and repair of existing buildings shall permit the replacement, retention, and extension of original materials and the use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the California Building Standards Code and the other rules and regulations of the department or alternative local standards adopted pursuant to Section 13143.2 and does not become or continue to be a substandard building.

SEC. 8. Section 17964 of the Health and Safety Code is amended to read:

17964. By charter, ordinance, or resolution, a city, county, or city and county may designate and charge a department organized to carry out the purposes of this part, or an officer charged with the responsibility of carrying out this part, with the enforcement of this part, the building standards published in the California Building Standards Code, or any other rules and regulations adopted pursuant to this part for the protection of the public health, safety, and general welfare as set forth in Section 17921. However, this section shall apply to the duties and responsibilities enumerated in Section 17962 only if, in the area involved, there is no city, county, or city and county fire department or district providing fire protection services. By March 1 of each year, the designated department or officer shall provide in writing to the department the name, address, telephone number, and contact person of the designated department or officer.

SEC. 9. Section 18008.5 of the Health and Safety Code is amended to read:

18008.5. ''Manufactured home or mobilehome accessory building or structure'' or ''manufactured home or mobilehome accessory'' includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch or other equipment established for the use of the occupant of the manufactured home or mobilehome.

SEC. 10. Section 18063 of the Health and Safety Code is amended to read:

18063. It is unlawful for a salesperson to do any of the following:

(a) At the time of employment, not deliver to his or her employing dealer his or her salesperson's license or 90-day certificate.

(b) Fail to report in writing to the department every change of residence within five days of the change.

(c) Act or attempt to act as a salesperson while not employed by a dealer. For purposes of this subdivision, ''employment by a dealer'' means employment reported to the department pursuant to subdivision (c) of Section 18060.

(d) To violate Section 798.71 or 798.74 of the Civil Code, or both.

SEC. 11. Section 18080.1 of the Health and Safety Code is amended to read:

18080.1. The registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home may be held in the name of a company, an estate, a trust, a conservatorship, a guardianship, or an individual owner's name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a guardianship or conservatorship, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the name of the person or persons designated as the conservators or guardians, as evidenced by documentation of that status deemed adequate by the department. The name shall be followed by the word ''guardian'' or ''conservator,'' whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signatures of all designated conservators or guardians.

(c) In the case of a trust, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the name of the trust as evidenced by documentation of that status deemed adequate by the department. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach,

truck camper, or floating home so registered shall require the signature or signatures of the authorized trustee or trustees designated in the trust.

(d) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of an officer or authorized agent of the company.

(e) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate as evidenced by documentation of that status deemed adequate by the department. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of the appointed executor or administrator.

SEC. 12. Section 18307 is added to the Health and Safety Code, to read:

18307. (a) The department may delegate all or any portion of the authority to enforce this part and the regulations adopted pursuant to this part, or to enforce specific sections of this part or those regulations, to a local building department or health department of any city, county, or city and county, where the department is the enforcement agency, if all of the following conditions exist:

(1) The delegation of authority is necessary to provide prompt and effective recovery assistance or services during or immediately following a disaster declared by the Governor.

(2) The local building department or health department requests the authority and that request is approved by the governing body having jurisdiction over the local building department or health department.

(3) The department has determined that the local building department or health department possesses the knowledge and expertise necessary to administer the delegated responsibilities.

(b) The delegation of authority shall be limited to the time established by the department as necessary to adequately respond to the disaster, or the time period determined by the department, but in no case shall the period exceed 60 days. The delegation of authority may be limited to specific geographic areas or specific mobilehome parks or recreational vehicle parks at the sole discretion of the department.

(c) Local building departments and health departments acting pursuant to subdivision (a) may charge fees for services rendered, not to exceed the department's approved schedule of fees associated with the services provided. The department may also reimburse these local

departments if funds are received for the activities undertaken pursuant to subdivision (a), but no obligation for reimbursement by the department shall accrue unless funds are allocated to the department for this purpose.

SEC. 13. Section 33426.7 of the Health and Safety Code is amended to read:

33426.7. (a) Notwithstanding any other provision of this part, a redevelopment agency shall not provide any form of financial assistance to an automobile dealership or big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area, unless the legislative body of the community to which the relocation will occur offers the contract to the community from which the relocation is occurring pursuant to this section.

(b) If the automobile dealership or big box retailer is relocating within the same county, including both incorporated and unincorporated territory, or to an adjacent county or a city within an adjacent county, the redevelopment agency proposing to offer financial assistance shall prepare a report that describes the market area for the automobile dealership or big box retailer that is relocating. The report shall include the information required to be contained in the resolution pursuant to subdivision (e). The report shall refer to and cite the independent literature, trade publications, and recognized and established business policies and practices describing the market area for the automobile dealership or big box retailer that is relocating. The report shall conclude that the relocation is occurring either within the same market area or outside the same market area. The report shall be available to the public not later than 45 days prior to the date of the public hearing required by subdivision (d). In addition, the notice of the public hearing and the report shall be mailed to the community from which the relocation is occurring.

(c) (1) If the report prepared pursuant to subdivision (b) concludes that the automobile dealership or big box retailer is relocating within the same market area, at least 45 days prior to the public hearing required pursuant to subdivision (d), the agency shall notify the community from which the relocation is occurring of its intent to give financial assistance and shall send to that community a contract that has been approved by a two-thirds vote of the legislative body of the agency and that apportions the sales tax generated from the automobile dealership or big box retailer after the relocation between the two communities in the following manner:

(A) The annual amount of assistance shall be subtracted from the annual sales tax.

(B) The difference shall be divided equally between the two communities for the first 10 fiscal years following the relocation. However, in no event shall the community from which the relocation is occurring receive more sales tax than it received from the automobile dealership or big box retailer in the fiscal year prior to the relocation.

(C) After the first 10 fiscal years following the relocation, the contract shall terminate and the apportionment shall end unless the contract is extended by both communities.

(2) The community from which the relocation is occurring shall have 30 days after receipt of the contract to approve the contract by enacting a resolution or ordinance approved by a two-thirds vote of its legislative body.

(d) Prior to a redevelopment agency giving any financial assistance to an automobile dealership or big box retailer that is relocating, the agency shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community at least once per week for at least three successive weeks, as specified in Section 6063 of the Government Code, prior to the hearing.

(e) The resolution approving financial assistance shall do all of the following:

(1) Identify the present name and, if different, the former name of the relocating automobile dealership or big box retailer.

(2) Identify the address, including the city or county, from which the automobile dealership or big box retailer has moved or will move.

(3) Identify the address, including the city or county, to which the automobile dealership or big box retailer will move.

(4) Contain one of the following findings:

(A) That the automobile dealership or big box retailer is not relocating within the same market area.

(B) That the automobile dealership or big box retailer is relocating within the same market area but that a contract containing the terms specified in subdivision (c) has been approved by the agency's legislative body, and offered to the community from which the relocation has occurred, which has approved the agreement, entered into another agreement acceptable to both communities, or has not accepted the proposed contract within the 30-day period.

These findings shall be final and conclusive as to all persons except for the automobile dealership or big box retailer that is the subject of the findings and the community from which the relocation has occurred, all of which may bring an action to challenge these findings.

(f) As used in this section, the following terms have the following meaning:

(1) ''Big box retailer'' means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) ''Community'' and ''territorial jurisdiction'' have the meanings specified in Sections 33002 and 33120, respectively.

(3) ''Financial assistance'' includes, but is not limited to, any of the following:

(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the automobile dealership or big box retailer.

(C) The sale or lease of real property at a cost that is less than fair market value.

(D) Payment for, forgiveness of, or reduction of fees.

(4) (A) ''Market area'' means a geographical area that is described in independent and recognized commercial trade literature, recognized and established business or manufacturing policies or practices, or publications of recognized independent research organizations as being an area that is large enough to support the location of the specific automobile dealership or the specific big box retailer that is relocating.

(B) With respect to an automobile dealership, a ''market area'' shall not extend further than 40 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the automobile dealership is relocating and ending at the location to which the automobile dealership is relocating.

(C) With respect to a big box retailer, a ''market area'' shall not extend further than 25 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the big box retailer is relocating and ending at the location to which the big box retailer is relocating.

(5) ''Relocating'' means the closing of an automobile dealership or big box retailer in one location and the opening of an automobile dealership or big box retailer in another location within a 365-day period when a person or business entity has an ownership interest in both the automobile dealership or big box retailer that has closed or will close and the one that is opening. ''Relocating'' does not mean and shall not include the closing of an automobile dealership or big box retailer because the automobile dealership or big box retailer has been or will be acquired or has been or will be closed as a result of the use of eminent domain.

(g) This section does not apply to agency assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of the automobile dealership or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the automobile dealership or big box retailer.

(h) Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2004, the California Research Bureau shall report to the Legislature and the Governor regarding the implementation of this section. The report shall identify the reports prepared pursuant to subdivision (b), the contracts offered pursuant to subdivision (c), and the resolutions approved pursuant to subdivision (e). The report may include any additional information that the bureau finds relevant. The report may also include recommendations for legislative action, including, but not limited to, amending, or extending the repeal date of, this section.

(i) This section shall not apply to any financial assistance provided by a redevelopment agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the redevelopment agency and an automobile dealership, big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

(j) 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. 14. Section 50066 of the Health and Safety Code is amended to read:

50066. ''Development loan'' means a loan, made prior to the granting of a construction loan, for planning, acquisition of land and improvements thereon, and site preparation for a housing development or residential structure. A development loan may include costs of architectural, engineering, legal and consulting services, the cost of necessary studies, surveys and governmental permits, and the cost of any other items that the agency deems reasonable and necessary for the initial preparation for construction or rehabilitation of a housing development or residential structure.

SEC. 15. Article 13 (commencing with Section 33460) of Chapter 4 of Part 2 of Division 24 of the Health and Safety Code is repealed.

SEC. 16. Article 3 (commencing with Section 33492.60) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code is repealed.

SEC. 17. Chapter 5.5 (commencing with Section 50640) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 17.5. The heading of Part 3 (commencing with Section 50900) of Division 31 of the Health and Safety Code, as amended by Section 14.5 of Chapter 94 of the Statutes of 1994, is amended to read:

PART 3. CALIFORNIA HOUSING FINANCE AGENCY

SEC. 18. Section 50911 of the Health and Safety Code is amended to read:

50911. (a) Notwithstanding Sections 11042 and 11043 of the Government Code, the executive director may employ as general counsel for the agency an attorney at law licensed in this state. The general counsel shall advise the board, the chairperson, and the executive director, when so requested, with regard to all matters in connection with the powers and duties of the agency and the board members and officers thereof. The general counsel shall serve as secretary to the board and shall perform all duties and services as general counsel to the agency that the agency may require of that person.

(b) Except as provided in Section 11040 of the Government Code, the Attorney General shall represent and appear for the people of the State of California and the agency in all court proceedings involving any question under this division or any order or act of the agency. However, the agency may also employ private counsel to assist in any court proceeding.

(c) Notwithstanding Sections 11042 and 11043 of the Government Code, the executive director may appoint as bond counsel for the agency an attorney or attorneys. Nothing in this section or any other provision of law shall preclude the appointment of more than one attorney to serve as bond counsel, however, at all times at least one attorney shall be licensed to practice law in this state. If the agency appoints more than one bond counsel for a bond issue, the combined fees paid to all bond counsel shall not exceed those fees that would have been paid had only one bond counsel been appointed.

(d) Under the authority of this section, the executive director may appoint or retain an attorney or attorneys to undertake other appropriate legal studies and assignments not in conflict with this section.

SEC. 19. Section 51000.1 of the Health and Safety Code is amended to read:

51000.1. Notwithstanding any other provision of law, except as provided in Section 51000.3, no officer or division of state government shall transfer any sums of money from any fund or account of the agency, except as may be ordered or authorized by either of the following:

(a) The executive director of the agency or his or her designee.

(b) The designated trustee, pursuant to authority contained in appropriate adopted resolutions pertaining to notes or bonds issued by the agency.

SEC. 20. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, by November 1 of each year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, the Legislative Analyst, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of residential structures purchased during the previous fiscal year by persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

(b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, (1) the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950, (2) the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226, (3) the elderly and orthopedic disability occupancy requirements established pursuant to Section 51230, (4) the use of surplus moneys pursuant to Section 51007, (5) the metropolitan, nonmetropolitan, and rural goals established pursuant to subdivision (h) of Section 50952, (6) the California Statewide Housing Plan, as required by Section 50154, (7) the statistical and other information developed and maintained pursuant to Section 51610, (8) the number of manufactured housing units assisted by the agency, (9) information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in

Section 51365, including the amount by which each fund balance exceeds indenture requirements, (10) any recommendations described in subdivision (d), (11) any recommendations described in Section 51227, (12) the revenue bonding authority plan adopted pursuant to Section 51004.5, (13) the statistical and other information required to be provided pursuant to Section 50156, (14) an analysis of the agency's compliance with the targeting requirements of subsection (d) of Section 142 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 142) with respect to any issue of bonds subject to those requirements under Section 103 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 103), including the numbers of rental units subject to this reporting requirement by categories based on the number of bedrooms per unit, and (15) the statistical and other information relating to congregate housing for the elderly pursuant to Section 51218.

The agency may, at its option, include the information required by this section in a single document or may separately report the statistical portion of the information in a supplement appended to its annual report. This statistical supplement shall be distributed with copies of the agency's annual report, but need not be provided to bond rating agencies, underwriters, investors, developers, or financial institutions.

(c) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

(d) The agency shall assess any obstacles or problems that it has encountered in meeting its mandate to serve nonmetropolitan and rural metropolitan areas, and recommend legislative and administrative solutions to overcome these obstacles or problems. The agency shall separately assess its progress in meeting the rehabilitation needs of rural areas and the new construction needs of rural areas, and separately assess its progress as to single and multifamily units. The agency shall include in its report a quantification and evaluation of its progress in meeting the housing needs of communities of various sizes in rural areas.

(e) By December 1 of each fiscal year, the agency shall ascertain that not less than 25 percent of the total units financed by mortgage loans during the preceding 12 months pursuant to this part were made available to very low income households. If the agency finds that these very low income occupancy goals have not been met, the agency shall immediately notify the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, and shall recommend legislation or other action as may be required to make (1) at least 25 percent of the units so available, and (2) at least 25 percent of the units thereafter financed so available. In housing developments for which the agency provides a

construction loan but not a mortgage loan, the agency shall report annually on the percentage of units projected to be made available for occupancy and actually occupied by lower income households.

SEC. 21. The heading of Chapter 5 (commencing with Section 51100) of Part 3 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 5. FINANCING OF HOUSING DEVELOPMENTS AND RESIDENTIAL STRUCTURES

SEC. 22. Section 51253 of the Health and Safety Code is repealed.

SEC. 23. The Legislature finds and declares that the amendments to Section 53084 of the Government Code and of Section 33426.7 of the Health and Safety Code made by this act do not constitute a change in, but are declaratory of, existing law.

CHAPTER 472

An act to add and repeal Section 6086.11 of the Business and Professions Code, and to amend Section 1714.10 of the Civil Code, relating to attorneys.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 6068.11 is added to the Business and Professions Code, to read:

6068.11. (a) The Legislature finds and declares that the opinion in State Farm Mutual Auto Insurance Company v. Federal Insurance Company (1999) 72 Cal. App. 4th 1422, raises issues concerning the relationship between an attorney and an insurer when the attorney is retained by the insurer to represent the insured. These issues involve both the Rules of Professional Conduct for attorneys and procedural issues affecting the conduct of litigation.

(b) The board in consultation with representatives of associations representing the defense bar, the plaintiffs bar, the insurance industry and the Judicial Council, shall conduct a study concerning the legal and professional responsibility issues that may arise as a result of the relationship between an attorney and an insurer when the attorney is retained by the insurer to represent an insured, and subsequently, the attorney is retained to represent a party against another party insured by

the insurer. The board shall prepare a report that identifies and analyzes the issues and, if appropriate, provides recommendations for changes to the Rules of Professional Conduct and relevant statutes. The board shall submit the report to the Legislature and the Supreme Court of California on or before July 1, 2001.

(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. Section 1714.10 of the Civil Code is amended to read:

1714.10. (a) No cause of action against an attorney for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute, and which is based upon the attorney's representation of the client, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes the claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action. The court may allow the filing of a pleading claiming liability based upon such a civil conspiracy following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Failure to obtain a court order where required by subdivision (a) shall be a defense to any action for civil conspiracy filed in violation thereof. The defense shall be raised by the attorney charged with civil conspiracy upon that attorney's first appearance by demurrer, motion to strike, or such other motion or application as may be appropriate. Failure to timely raise the defense shall constitute a waiver thereof.

(c) This section shall not apply to a cause of action against an attorney for a civil conspiracy with his or her client, where (1) the attorney has an independent legal duty to the plaintiff, or (2) the attorney's acts go beyond the performance of a professional duty to serve the client and involve a conspiracy to violate a legal duty in furtherance of the attorney's financial gain.

(d) This section establishes a special proceeding of a civil nature. Any order made under subdivision (a), (b), or (c) which determines the rights of a petitioner or an attorney against whom a pleading has been or is

proposed to be filed, shall be appealable as a final judgment in a civil action.

(e) Subdivision (d) does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 473

An act to amend Sections 10167, 10167.2, 10167.3, 10167.7, 10167.9, 10167.10, 10167.11, and 10167.12 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 10167 of the Business and Professions Code is amended to read:

10167. The definitions used in this section shall govern the construction and terms as used in this article:

(a) ''Prepaid rental listing service'' means the business of supplying prospective tenants with listings of residential real properties for tenancy, by publication or otherwise, pursuant to an arrangement under which the prospective tenants are required to pay an advance or contemporaneous fee (1) specifically to obtain listings or (2) to purchase any other product or service in order to obtain listings, but which does not otherwise involve the negotiation of rentals by the person conducting the service. ''Prepaid rental listing service'' does not include the business of providing roommate referral information designed to assist persons in locating a roommate who meets various selection criteria related to the prospective roommate's personal traits, characteristics, habits or preferences, and selection criteria related to the residential real property occupied by the prospective roommate.

(b) ''Licensee'' means a person licensed to conduct a prepaid rental listing service or a person engaged in the business of a prepaid rental listing service under a real estate broker license.

(c) ''Location'' means the place, other than the main or branch office of a real estate broker, where a prepaid rental listing service business is conducted.

(d) ''Designated agent'' means the person who is in charge of the business of a prepaid rental listing service at a given location.

(e) ''Fee'' means the charge required by a licensee (1) to obtain listings of residential real properties for tenancy or (2) to purchase any other product or service in order to obtain listings.

(f) ''Service charge'' means the amount of the fee that a licensee may retain if a prospective tenant finds housing through a source other than the listings supplied by the licensee.

SEC. 2. Section 10167.2 of the Business and Professions Code is amended to read:

10167.2. (a) It is unlawful for any person to engage in the business of a prepaid rental listing service unless licensed in that capacity or unless licensed as a real estate broker.

(b) (1) The requirements of this article apply only to the provision of listings of residential real properties for tenancy by prepaid rental listing services. Except if expressly provided otherwise in this article, the requirements of this article do not apply to any other goods or services sold by a prepaid rental listing service as long as the purchase of those goods or services is not required to obtain those listings and as long as the purchase of those goods or services is not included in the same contract as the contract to provide those listings, and as long as the contract to provide those listings clearly specifies that the purchase of any other goods and services is optional, and as long as the price charged for any other goods and services is fair and reasonable.

(2) In an action alleging that the price charged for any other goods and services is not fair and reasonable, the burden shall be on the commissioner to demonstrate that the price charged unreasonably exceeds the fee customarily charged for the same or comparable goods or services in the community in which the prepaid rental listing service operates. The fact that the price charged for goods or services exceeds the cost incurred by the prepaid rental listing service shall not render the price charged for the goods or services to not be fair or reasonable, so long as the price charged does not unreasonably exceed the fee customarily charged for the same or comparable goods or services in the community in which the prepaid rental listing service operates.

SEC. 3. Section 10167.3 of the Business and Professions Code is amended to read:

10167.3. (a) A separate application for a license as a prepaid rental listing service shall be made in writing for each location to be operated by a licensee other than a real estate broker. Each application shall be on forms provided by the department, shall be signed by the applicant, and shall be accompanied by a one hundred dollar ($100) application fee for the first location, and a twenty-five dollar ($25) application fee for each additional location of the applicant.

Applications to add or eliminate locations during the term of a license shall be on forms prescribed by the department. A twenty-five dollar

($25) application fee for the remainder of a license term for each location to be added shall accompany the application.

(b) A real estate broker may provide a prepaid rental listing service at a licensed office for the conduct of his or her real estate brokerage business if the business at the office is conducted under the immediate supervision of the broker or of a real estate salesperson licensed to, and acting on behalf of, the broker.

SEC. 4. Section 10167.7 of the Business and Professions Code is amended to read:

10167.7. Except as provided in Section 10167.8, each licensee shall provide to the department, and at all times maintain in force, a bond in the amount of ten thousand dollars ($10,000) for each location. The bond may be in the form of a corporate surety bond, or a cash deposit. A cash deposit may be deposited by the licensee in an interest-bearing account assigned to the commissioner, with interest earned thereon payable to the licensee. The bond or cash deposit may be utilized by the commissioner for the benefit of any unsatisfied judgment creditor in an action pursuant to subdivision (e) of Section 10167.10.

SEC. 5. Section 10167.9 of the Business and Professions Code is amended to read:

10167.9. (a) Prior to the acceptance of a fee, a licensee shall offer the prospective tenant a written contract, either on paper or in electronic form, which shall include at least the following:

(1) The name of the licensee and the addresses and telephone numbers of the principal office or location of the licensee and of the location, or branch office of a real estate broker, providing the listing to the prospective tenant.

(2) Acknowledgment of receipt of the fee, including the amount.

(3) A description of the service to be performed by the licensee, including significant conditions, restrictions, and limitations where applicable.

(4) The prospective tenant's specifications for the rental property, including, but not limited to:

(A) Type of structure, including, but not limited to, detached single-family home, apartment, or duplex.

(B) Location by commonly accepted residential area name, by designation of boundary streets, or by any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.

(C) Furnished or unfurnished.

(D) Number of bedrooms required.

(E) Maximum acceptable monthly rental.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full or partial refund of the fee paid as provided in Section 10167.10.

(7) The signature and printed full name of the licensee or of the designated agent, real estate salesperson, or employee acting on behalf of the licensee. The signature of any person, including any signature required by the terms of the contract to be provided by the prospective tenant, may be provided in any electronic form that provides a reasonable method of indicating that the individual whose signature is required authorized the contract to be signed in that electronic form.

(8) A clause in bold type letters outlining the small claims court remedy available to the prospective tenant.

(9) A clause in boldface type letters clearly stating that the purchase of any goods and services other than the provision of listings of residential real properties for tenancy is optional.

(b) (1) The original of each contract, any separate contracts for required goods or services, refund claims, receipts and any other relevant documents shall be retained by the licensee for a period of not less than three years from the date of termination of the contract during which time the contract shall be subject to examination by a duly authorized representative of the commissioner. Any records retained pursuant to this subdivision that are stored in the ordinary course of business in digital media shall, upon request of a duly authorized representative of the commissioner, be provided on diskette, CD-ROM or similar portable digital storage medium. For purposes of this subdivision, the ''original'' of a contract executed in electronic form shall be either the copy of the contract stored in digital media or a paper printout of that contract.

(2) Any licensee, or employee thereof, shall dispose of the documents required to be kept pursuant to paragraph (1) by shredding or other appropriate means so that the identity of the prospective tenant may not be determined from the disposed information alone or in combination with other publicly available information.

(c) The form of contract proposed to be used by a licensee to effect compliance with this section shall be filed with the department prior to use. Any modification of a form previously filed with the department, including a change in the name or business address of the licensee, shall also be filed prior to use. The department shall withhold the issuance or renewal of a license until the department has approved the contract. If a proposed modification to a contract has not been approved or disapproved within 15 working days of being filed with the department, the proposed modification shall be deemed approved. If a proposed modification or contract provision is disapproved, the department shall communicate that disapproval in writing to the licensee within 15 working days of being filed with the department, accompanied by a

written justification of why the modification or contract provision is contrary to the requirements of this article.

(d) Notwithstanding any other provision of law, a contract for prepaid rental listing services executed in electronic form, and signed in any electronic form that provides a reasonable method of indicating that the individual whose signature is required authorized the contract to be signed in electronic form, shall be valid to the same extent as an executed written contract. Upon request by the customer, the licensee shall deliver an executed paper copy to the customer within five working days of receiving the request.

SEC. 6. Section 10167.10 of the Business and Professions Code is amended to read:

10167.10. (a) (1) A licensee shall refund in full the fee paid by a prospective tenant if the licensee does not, within five days after execution of the contract, supply at least three rental properties then available to the prospective tenant and meeting the specifications of the contract, unless the prospective tenant obtains a rental through the services of the licensee.

(2) A licensee will be deemed to have supplied information meeting the specifications of the prospective tenant if the information supplied meets the contract specifications with reference to: (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract. A demand for the return of the fee shall be made by or on behalf of the prospective tenant within 10 days following the expiration of the five-day period referred to above by delivery or by mailing by registered or certified mail to the address of a location, or branch office of a real estate broker, set forth in the contract.

(b) (1) Except as provided in paragraph (3), a licensee shall refund any fee paid over and above the sum of a fifty dollar ($50) service charge to the prospective tenant if the prospective tenant obtains a rental other than through the services of the licensee during the term of the contract or does not obtain a rental, provided that the prospective tenant demands a return of that part of the fee within 10 days after the expiration of the contract.

(2) The licensee shall refund any fee paid over and above the sum of a fifty dollar ($50) service charge to the prospective tenant within 10 days of receipt from the prospective tenant of either the documentation specified in subparagraph (A) or the written statement specified in subparagraph (B), as applicable:

(A) Except as specified in subparagraph (B), a prospective tenant demanding a refund shall provide to the licensee reasonable documentation of the prospective tenant's new rental or of the fact that the prospective tenant did not move, such as a lease, rental agreement,

or utility bill, with sufficient information to verify that the new rental was not obtained through the services of the licensee or that the prospective tenant did not move.

(B) If the prospective tenant is unable to locate or provide the documentation specified in subparagraph (A), the prospective tenant may, at his or her option, fill out and sign a written statement, supplied by the licensee, in the following form:

I, _____, do swear or affirm the following:
(name of prospective tenant)

I currently live at _____ .
(street address)

The following statement is true (check one):

___ I have rented a unit at the above address. I did not obtain this rental through the services of _____
(name of licensee)
during the time of our contract.

___ I did not find a new rental and did not move. I still live at the above address.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

_____
(date)

_____
(location)

_____
(signature)

(3) On or after January 1, 2002, the department may, from time to time, by regulation, adjust the amount of the allowable service charge to reflect the rate of inflation from the previous date that the amount of the allowable service charge was established, as measured by the Consumer Price Index or other method of measuring the rate of inflation which the department determines is reliable and generally accepted.

(c) Each contract shall contain provisions that shall read as follows unless different language shall have been approved in writing by the department prior to use:

"RIGHT TO REFUND
(Full capital letters, in 12-point type or greater, boldface or italicized)

If, within five days after payment of a fee, the licensee has not supplied the prospective tenant with at least three available rental properties meeting the specifications of the contract as to (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract, the full amount of the fee paid shall be refunded to the prospective tenant upon presentation of evidence of that failure within 10 days after the expiration of the five-day period. The prospective tenant is not entitled to a refund if the prospective tenant obtains a rental through the services of the licensee.

If the prospective tenant obtains a rental other than through the services of the licensee during the term of this contract or if the prospective tenant does not obtain a rental through the services of the licensee during the term of the contract, the licensee shall refund the fee received in excess of a (insert applicable limit pursuant to subdivision (b) of Section 10167.10 of the Business and Professions Code) service charge to the prospective tenant within 10 days after the prospective tenant supplies either (i) reasonable documentation of the prospective tenant's new rental or of the fact that the prospective tenant did not move, such as a lease, rental agreement, or utility bill, with sufficient information to verify that the new rental was not obtained through the services of the licensee or that the prospective tenant did not move, or (ii) if the prospective tenant is unable to locate or provide that documentation, the prospective tenant may, at his or her option, fill out a written form provided by the licensee and signed by the prospective tenant under penalty of perjury stating that he or she did not obtain a rental through the services of the licensee during the time of the contract.

To be entitled to a refund in excess of the service charge, the prospective tenant must mail or deliver the demand for refund not later than 10 days after expiration of this contract, and must supply either (i) reasonable documentation of the prospective tenant's new rental or of the fact that the prospective tenant did not move, such as a lease, rental agreement, or utility bill, with sufficient information to verify that the new rental was not obtained through the services of the licensee or that the prospective tenant did not move, or (ii) a written form provided by the licensee and signed by the prospective tenant under penalty of perjury stating that he or she did not obtain a rental through the services of the licensee during the time of the contract. The documentation may be supplied after the demand for a refund is mailed or delivered, provided that it is supplied within a reasonable time after it becomes available."

(d) This section shall not apply to a person purchasing rental information for a purpose other than that of locating a rental unit for personal use or the use of a designated person.

(e) If the licensee fails to make a refund as provided in this section and if the denial or delay in making the refund is found to have been done in bad faith, a court of appropriate jurisdiction, including a small claims court, shall be empowered to award damages to the plaintiff in an amount not to exceed one thousand dollars ($1,000) in addition to actual damages sustained by the plaintiff. If the licensee refuses or is unable to pay the damages awarded by the court, the award may be satisfied out of the security required under Section 10167.7.

SEC. 7. Section 10167.11 of the Business and Professions Code is amended to read:

10167.11. It shall be a violation of this article for any licensee or any employee or agent of a licensee to do the following:

(a) Make, or cause to be made, any false, misleading, or deceptive advertisements or representations concerning the services that the licensee will provide to prospective tenants.

(b) Refer a property to a prospective tenant knowing or having reason to know that:

(1) The property does not exist or is unavailable for tenancy.

(2) The property has been described or advertised by or on behalf of the licensee in a false, misleading, or deceptive manner.

(3) The licensee has not confirmed the availability of the property for tenancy during the four-day period immediately preceding dissemination of the listing information. However, it shall not be a violation to refer a property to a prospective tenant during a period of from five to seven days after the most recent confirmation of the availability of the property for rental if the licensee has made a good faith effort to confirm availability within the stated four-day period, and if the most recent date of confirmation of availability is set forth in the referral.

(4) The licensee has not obtained written or oral permission to list the property from the property owner, manager, or other authorized agent.

SEC. 8. Section 10167.12 of the Business and Professions Code is amended to read:

10167.12. (a) The commissioner may suspend, deny, or revoke the license of a licensee or the license of the licensee to operate at one or more locations for either of the following:

(1) A violation of this article by a licensee or by an employee or agent, including a designated agent, of the licensee.

(2) A conviction of a licensee, or a designated agent, or of an officer, director, or owner of 25 percent or more of the shares of a corporate licensee for a crime which is substantially related to the qualifications, functions, or duties of a prepaid rental listing service licensee.

(b) For the purpose of determining whether grounds exist for suspending, denying, or revoking the license of a licensee, the commissioner shall hold a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 474

An act to amend Sections 2025, 2025.5, 2026, and 2027 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 2025 of the Code of Civil Procedure is amended to read:

2025. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

(b) Subject to subdivisions (f) and (t), an oral deposition may be taken as follows:

(1) The defendant may serve a deposition notice without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.

(2) The plaintiff may serve a deposition notice without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. However, on motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to serve a deposition notice on an earlier date.

(c) A party desiring to take the oral deposition of any person shall give notice in writing in the manner set forth in subdivision (d). However, where under subdivision (d) of Section 2020 only the production by a nonparty of business records for copying is desired, a copy of the deposition subpoena shall serve as the notice of deposition. The notice of deposition shall be given to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys for parties on whom it is served.

Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the subpoenaing party shall serve on that consumer (1) a notice of the deposition, (2) the notice of privacy rights specified in subdivision (e) of Section 1985.3 and in Section 1985.6, and (3) a copy of the deposition subpoena.

(d) The deposition notice shall state all of the following:

(1) The address where the deposition will be taken.

(2) The date of the deposition, selected under subdivision (f), and the time it will commence.

(3) The name of each deponent, and the address and telephone number, if known, of any deponent who is not a party to the action. If the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

(4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.

(5) Any intention to record the testimony by audiotape or videotape, in addition to recording the testimony by the stenographic method as required by paragraph (1) of subdivision (*l*) and any intention to record the testimony by stenographic method, through the instant visual display of the testimony. In the latter event, a copy of the deposition notice shall also be given to the deposition officer. Any offer to provide the instant visual display of the testimony or to provide rough draft transcripts to any party which is accepted prior to, or offered at, the deposition shall also be made by the deposition officer at the deposition to all parties in attendance.

(6) Any intention to reserve the right to use at trial a videotape deposition of a treating or consulting physician or of any expert witness under paragraph (4) of subdivision (u). In this event, the operator of the videotape camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which

examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent. A deposition subpoena shall advise a nonparty deponent of its duty to make this designation, and shall describe with reasonable particularity the matters on which examination is requested.

If the attendance of the deponent is to be compelled by service of a deposition subpoena under Section 2020, an identical copy of that subpoena shall be served with the deposition notice.

(e) (1) The deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence, unless the court orders otherwise under paragraph (3).

(2) The deposition of an organization that is a party to the action shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive or business office in California, or within the county where the action is pending and within 150 miles of that office. The deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in California, unless the organization consents to a more distant place. If the organization has not designated a principal executive or business office in California, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office in California of the organization.

(3) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more distant than that permitted under paragraph (1). This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

(A) Whether the moving party selected the forum.

(B) Whether the deponent will be present to testify at the trial of the action.

(C) The convenience of the deponent.

(D) The feasibility of conducting the deposition by written questions under Section 2028, or of using a discovery method other than a deposition.

(E) The number of depositions sought to be taken at a place more distant than that permitted under paragraph (1).

(F) The expense to the parties of requiring the deposition to be taken within the distance permitted under paragraph (1).

(G) The whereabouts of the deponent at the time for which the deposition is scheduled.

The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to increase travel limits for party deponent, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena. However, in unlawful detainer actions, an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under subdivision (i).

(g) Any party served with a deposition notice that does not comply with subdivisions (b) to (f), inclusive, waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served. If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under subdivision (u) if the party did not

attend the deposition and if the court determines that the objection was a valid one.

In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The taking of the deposition is stayed pending the determination of this motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to quash a deposition notice, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(h) (1) The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(2) The attendance and testimony of any other deponent, as well as the production by the deponent of any document or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Section 2020.

(i) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the deposition not be taken at all.

(2) That the deposition be taken at a different time.

(3) That a videotape deposition of a treating or consulting physician or of any expert witness, intended for possible use at trial under paragraph (4) of subdivision (u), be postponed until the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent, or other means, for cross-examination.

(4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by subdivision (e).

(5) That the deposition be taken only on certain specified terms and conditions.

(6) That the deponent's testimony be taken by written, instead of oral, examination.

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(8) That the testimony be recorded in a manner different from that specified in the deposition notice.

(9) That certain matters not be inquired into.

(10) That the scope of the examination be limited to certain matters.

(11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.

(12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.

(13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.

(14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.

(15) That the deposition be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) (1) If the party giving notice of a deposition fails to attend or proceed with it, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, and in favor of any party attending in person or by attorney, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in subdivision (h) of Section 2020.

(3) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under subdivision (d), without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. This motion (A) shall set forth specific facts showing good cause justifying the production for inspection of any document or tangible thing described in the deposition notice, and (B) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by it or, when the deponent fails to attend the deposition and produce the documents or things described in the deposition notice, by a declaration stating that the petitioner has contacted the deponent to inquire about the nonappearance. If this motion is granted, the court shall also impose a monetary sanction under Section 2023 against the deponent or the party with whom the deponent is affiliated, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. On motion of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, the court shall also impose a monetary sanction under Section 2023, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against that party deponent or against the party with whom the deponent is affiliated. In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Section 2023 against that deponent or against the party with whom that party deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

(k) Except as provided in paragraph (3) of subdivision (d) of Section 2020, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath and is subject to all of the following requirements:

(1) The officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of the parties, or of any of the parties.

(2) Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys.

(3) The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any party's attorney or third party who is financing all or part of the action any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or entity providing the services of the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action.

(4) Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not represented by an attorney shall be informed by the noticing party or the party's attorney that the unrepresented party may request this statement.

(5) Any objection to the qualifications of the deposition officer shall be waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

(*l*) (1) The deposition officer shall put the deponent under oath. Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. The party noticing the deposition may also record the testimony by audiotape or videotape if the notice of deposition stated an intention also to record the

testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make a simultaneous audiotape or videotape record of the deposition, provided that other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to audiotape or videotape the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under subdivision (c), and on any deponent whose attendance is being compelled by a deposition subpoena under Section 2020. If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011. Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(2) If the deposition is being recorded by means of audiotape or videotape, the following procedure shall be observed:

(A) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(B) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this subdivision. The operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer. However, if a videotape of deposition testimony is to be used under paragraph (4) of subdivision (u), the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions. Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered or provided to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys. The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any other person or entity any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or the entity providing the services of

the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action. Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not represented by an attorney shall be informed by the noticing party that the unrepresented party may request this statement.

(C) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(D) The deposition shall begin with an oral or written statement on camera or on the audiotape that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(E) Counsel for the parties shall identify themselves on camera or on the audiotape.

(F) The oath shall be administered to the deponent on camera or on the audiotape.

(G) If the length of a deposition requires the use of more than one unit of tape, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audiotape.

(H) At the conclusion of a deposition, a statement shall be made on camera or on the audiotape that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audiotape or videotape recording and the exhibits, or concerning other pertinent matters.

(I) A party intending to offer an audiotaped or videotaped recording of a deposition in evidence under subdivision (u) shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the tape. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audiotaped or videotaped deposition that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the

deposition tape be prepared for use at the trial or hearing. The original audiotape or videotape of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering a videotape or an audiotape recording of that testimony under subdivision (u) shall accompany that offer with a stenographic transcript prepared from that recording.

(3) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.

(m) (1) The protection of information from discovery on the ground that it is privileged or that it is a protected work product under Section 2018 is waived unless a specific objection to its disclosure is timely made during the deposition.

(2) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under subdivision (n), the deposition shall proceed subject to the objection.

(3) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(4) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under subdivision (o).

(n) The deposition officer shall not suspend the taking of testimony without stipulation of the party conducting the deposition and the deponent unless any party attending the deposition or the deponent demands the taking of testimony be suspended to enable that party or deponent to move for a protective order on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party. This motion shall be accompanied by a declaration stating facts showing

a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court, for good cause shown, may terminate the examination or may limit the scope and manner of taking the deposition as provided in subdivision (i). If the order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for this protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(o) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production. This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice. Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audiotape or videotape, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion. If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent fails to obey an order entered under this subdivision, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under

Section 2023. In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Section 2023 against that party deponent or against any party with whom the deponent is affiliated.

(p) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed. The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party. Notwithstanding paragraph (2) of subdivision (k), any other party, at that party's expense, may obtain a copy of the transcript. If the deposition officer receives a request from a party for an original or a copy of the deposition transcript, or any portion thereof, and the document will be available to that party prior to the time the original or copy would be available to any other party, the deposition officer shall immediately notify all other parties attending the deposition of the request, and shall, upon request by any party other than the party making the original request, make that copy of the full or partial deposition transcript available to all parties at the same time. Stenographic notes of depositions shall be retained by the reporter for a period of not less than eight years from the date of the deposition, where no transcript is produced, and not less than one year from the date on which the transcript is produced. Those notes may be either on paper or electronic media, as long as it allows for satisfactory production of a transcript at any time during the periods specified. At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audiotape or videotape shall promptly (1) permit that other party to hear the audiotape or to view the videotape, and (2) furnish a copy of the audiotape or videotape to that other party on receipt of payment of the reasonable cost of making that copy of the tape.

If the testimony at the deposition is recorded both stenographically, and by audiotape or videotape, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(q) (1) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time. For 30 days following each such notice, unless the attending parties and the

deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition. For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person. If the deponent fails or refuses to approve the transcript within the allotted period, the deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the recording is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of an audiotape or videotape recording of the testimony. For 30 days following this notice the deponent, either in person or by signed letter to the deposition officer, may change the substance of the answer to any question.

The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as his or her own, or a

statement of the deponent's failure to supply the signature, or to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly refuses by a signature to identify the deposition as his or her own, the deposition shall be given the same effect as though signed. However, on a reasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(r) (1) The deposition officer shall certify on the transcript of the deposition, or in a writing accompanying an audiotaped or videotaped deposition as described in paragraph (2) of subdivision (q), that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given.

(2) When prepared as a rough draft transcript, the transcript of the deposition may not be certified and may not be used, cited, or transcribed as the certified transcript of the deposition proceedings. The rough draft transcript may not be cited or used in any way or at any time to rebut or contradict the certified transcript of deposition proceedings as provided by the deposition officer.

(s) (1) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: ''Deposition of (here insert name of deponent),'' and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

(2) An audiotape or videotape record of deposition testimony, including a certified tape made by an operator qualified under subparagraph (B) of paragraph (2) of subdivision (*l*), shall not be filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss,

destruction, or tampering, and preserve as far as practicable the quality of the tape and the integrity of the testimony and images it contains.

At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly (A) permit the one making the request to hear or to view the tape on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the tape, and (B) furnish a copy of the audiotape or the videotape recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the tape.

The attorney or operator who has custody of an audiotape or videotape record of deposition testimony shall retain custody of it until six months after final disposition of the action. At that time, the audiotape or videotape may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(t) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who has been served with a deposition notice pursuant to subdivision (c) may take a subsequent deposition of that deponent. However, for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken. This subdivision does not preclude taking one subsequent deposition of a natural person who has previously been examined (1) as a result of that person's designation to testify on behalf of an organization under subdivision (d), or (2), pursuant to a court order under Section 485.230, for the limited purpose of discovering pursuant to Section 485.230 the identity, location, and value of property in which the deponent has an interest. This subdivision does not authorize the taking of more than one subsequent deposition for the limited purpose of Section 485.230.

(u) At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(1) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under

subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party under this paragraph by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(3) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(A) The deponent resides more than 150 miles from the place of the trial or other hearing.

(B) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is (i) exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant, (ii) disqualified from testifying, (iii) dead or unable to attend or testify because of existing physical or mental illness or infirmity, (iv) absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process, or (v) absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(C) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(4) Any party may use a videotape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under subdivision (d) reserved the right to use the deposition at trial, and if that party has complied with subparagraph (I) of paragraph (2) of subdivision (*l*).

(5) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(6) Substitution of parties does not affect the right to use depositions previously taken.

(7) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

(v) Violation of subdivision (k) by any person may result in a civil penalty of up to five thousand dollars ($5,000) imposed by a court of competent jurisdiction.

SEC. 2. Section 2025.5 of the Code of Civil Procedure is amended to read:

2025.5. (a) Notwithstanding paragraph (2) of subdivision (k) of Section 2025, unless the court issues an order to the contrary, a copy of the transcript, videotape, or other recording of testimony at the deposition, if still in the possession of the deposition officer, shall be made available by the deposition officer to any person requesting a copy thereof upon payment of a reasonable charge set by the deposition officer.

(b) If a copy is requested from the deposition officer, the deposition officer shall mail a notice to all parties attending the deposition and to the deponent at his or her last known address advising them that (1) the copy is being sought, (2) the name of the person requesting the copy, and (3) the right to seek a protective order pursuant to subdivision (i) of Section 2025. If a protective order is not served on the deposition officer within 30 days of the mailing of the notice, the deposition officer shall make the copy available to the person requesting the copy.

(c) This section shall apply only to recorded testimony taken at depositions occurring on or after January 1, 1998.

SEC. 3. Section 2026 of the Code of Civil Procedure is amended to read:

2026. (a) Any party may obtain discovery by taking an oral deposition, as described in subdivision (a) of Section 2025, in another state of the United States, or in a territory or an insular possession subject to its jurisdiction. Except as modified in this section, the procedures for taking oral depositions in California set forth in Section 2025 apply to an oral deposition taken in another state of the United States, or in a territory or an insular possession subject to its jurisdiction.

(b) (1) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition notice is effective to compel that deponent to attend and to testify, as well as to produce any document or tangible thing for inspection and copying. The deposition notice shall specify a place in the state, territory, or insular possession of the United States that is within 75 miles of the residence or a business office of a deponent.

(2) If the deponent is not a party to the action or an officer, director, managing agent, or employee of a party, a party serving a deposition notice under this section shall use any process and procedures required and available under the laws of the state, territory, or insular possession where the deposition is to be taken to compel the deponent to attend and

to testify, as well as to produce any document or tangible thing for inspection, copying, and any related activity.

(c) A deposition taken under this section shall be conducted (1) under the supervision of a person who is authorized to administer oaths by the laws of the United States or those of the place where the examination is to be held, and who is not otherwise disqualified under subdivision (k) and subparagraph (B) of paragraph (2) of subdivision (*l*) of Section 2025, or (2) before a person appointed by the court. This appointment is effective to authorize that person to administer oaths and to take testimony. When necessary or convenient, the court shall issue a commission on such terms and with such directions as are just and appropriate.

SEC. 4. Section 2027 of the Code of Civil Procedure is amended to read:

2027. (a) Any party may obtain discovery by taking an oral deposition, as described in subdivision (a) of Section 2025, in a foreign nation. Except as modified in this section, the procedures for taking oral depositions in California set forth in Section 2025 apply to an oral deposition taken in a foreign nation.

(b) (1) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition notice is effective to compel the deponent to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(2) If a deponent is not a party to the action or an officer, director, managing agent or employee of a party, a party serving a deposition notice under this section shall use any process and procedures required and available under the laws of the foreign nation where the deposition is to be taken to compel the deponent to attend and to testify, as well as to produce any document or tangible thing for inspection, copying, and any related activity.

(c) A deposition taken under this section shall be conducted under the supervision of (1) a person who is authorized to administer oaths or their equivalent by the laws of the United States or of the foreign nation, and who is not otherwise disqualified under subdivision (k) and subparagraph (B) of paragraph (2) of subdivision (*l*) of Section 2025; (2) a person or officer appointed by commission or under letters rogatory; or (3) any person agreed to by all the parties.

On motion of the party seeking to take an oral deposition in a foreign nation, the court in which the action is pending shall issue a commission, letters rogatory, or a letter of request, if it determines that one is necessary or convenient. The commission, letters rogatory, or letter of request may include any terms and directions that are just and appropriate. The deposition officer may be designated by name or by descriptive title in the deposition notice and in the commission. Letters

rogatory or a letter of request may be addressed: ''To the Appropriate Judicial Authority in [name of foreign nation].''

CHAPTER 475

An act to amend Section 12598 of, and to add Sections 12586.1, 12586.2, 12591.1, and 12591.2 to, the Government Code, relating to charitable fundraising.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 12586.1 is added to the Government Code, to read:

12586.1. In addition to a registration fee, a charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer may be assessed a late fee or an additional fee of twenty-five dollars ($25) for each month or part of the month after the date on which the registration statement and financial report were due to be filed or after the period of extension granted for the filing if the charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer does any of the following:

(a) Exists and operates in California without being registered.

(b) Solicits contributions in California without being registered or, if applicable, bonded.

(c) Fails to file its first report no later than four months and 15 days following the close of each calendar or fiscal year and has not requested an extension of time to file the annual report.

(d) Fails to file its subsequent annual report no later than four months and 15 days following the close of each calendar or fiscal year subsequent to the filing of the first report and has not requested an extension of time to file the annual report.

(e) Fails to file its annual registration/renewal form within the time specified by the Attorney General irrespective of other report filing requirements.

(f) Fails to correct the deficiencies in its registration or annual report within 10 days of receipt of written notice of those deficiencies.

SEC. 2. Section 12586.2 is added to the Government Code, to read:

12586.2. All fines, penalties, attorney's fees, if any, as authorized by law, and costs of investigation paid to the Attorney General pursuant to Section 12598 shall be used by the Department of Justice solely for the

administration of the Attorney General's charitable trust enforcement responsibilities.

SEC. 3. Section 12591.1 is added to the Government Code, to read:

12591.1. (a) Any person who violates any provision of this article with intent to deceive or defraud any charity or individual is liable for a civil penalty not exceeding ten thousand dollars ($10,000).

(b) Except as provided in subdivision (d), any person who violates any other provision of this article is liable for a civil penalty, as follows:

(1) For the first offense, a fine not exceeding one thousand dollars ($1,000).

(2) For any subsequent offense, a fine not exceeding two thousand five hundred dollars ($2,500).

(c) Any offense committed under this article involving a solicitation may be deemed to have been committed at either the place at which the solicitation was initiated or at the place where the solicitation was received.

(d) Any person who violates only subdivision (c), (d), (e), or (f) of Section 12586.1 shall not be liable for a civil penalty under subdivision (b) if the person (1) has not received reasonable notice of the violation and (2) has not been given a reasonable opportunity to correct the violation. The Attorney General shall notify in writing a person who violates only subdivisions (c), (d), (e), or (f) of Section 12586.1 that he or she has 30 days to correct the violation.

(e) The recovery of a civil penalty pursuant to this section precludes assessment of a late fee pursuant to Section 12586.1 for the same offense.

SEC. 4. Section 12591.2 is added to the Government Code, to read:

12591.2. In any case where the Attorney General has authority to institute an action or proceeding under this article, he or she may accept an assurance of voluntary compliance through which any person alleged to be engaged in any method, act, or practice in violation of this article agrees to discontinue that method, act, or practice. The assurance may, among other terms, include a stipulation of a voluntary payment by the person of the cost of the investigation or of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons, or both. The assurance of voluntary compliance shall not be considered an admission of a violation for any purpose. The assurance of compliance shall be in writing and shall be filed with a superior court in this state for approval and if approved shall thereafter be filed with the clerk of the court. Matters closed may at any time be reopened by the court for further proceedings in the public interest. In the event of an alleged violation, the Attorney General may, at his or her discretion, either initiate contempt proceedings or proceed as if the assurance of voluntary compliance has not been accepted.

SEC. 5. Section 12598 of the Government Code is amended to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for insuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

(4) Sections 8111, 11703, 15004, 15409, 15680 to 15685, 16060 to 16062, 16064, and 17200 to 17210, inclusive, of the Probate Code.

(5) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, and Sections 17500 and 17535 of the Business and Professions Code.

(6) Sections 319, 326.5, and 532d of the Penal Code.

(b) The Attorney General shall be entitled to recover from defendants named in a charitable trust enforcement action all actual costs incurred in conducting that action, including the costs of auditors, consultants, and experts employed or retained to assist with the investigation, preparation, and presentation in court of the charitable trust enforcement action.

(c) Costs shall be recovered by the Attorney General pursuant to court order. At the time of entering judgment or approving settlement of a charitable trust enforcement action, as defined in subdivision (a), the court shall make findings on whether the Attorney General's action has resulted in pecuniary benefits or corrected a breach of trust for any charitable organization, or charitable purpose. If the court finds in the affirmative, the court shall award recovery of costs in the charitable trust enforcement action to the Attorney General and shall order that costs be paid by the charitable organization and the individuals named as defendants in or otherwise subject to the action, in a manner that the court finds to be equitable and fair. The court shall not award costs pursuant to this subdivision which exceed one-third of the pecuniary benefit to any charitable organization or charitable purpose realized by the Attorney General's action.

(d) Upon a finding by the court that a lawsuit filed by the Attorney General was frivolous or brought in bad faith, the court may award the defendant charity the costs of that action.

(e) (1) The Attorney General may refuse to register or may revoke or suspend the registration of a charitable corporation or trustee,

commercial fundraiser, fundraising counsel, or coventurer whenever the Attorney General finds that the charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer has violated or is operating in violation of any provisions of this article.

(2) All actions of the Attorney General shall be taken subject to the rights authorized pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2.

CHAPTER 476

An act to add Section 1834.8 to the Civil Code, relating to animal testing.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 1834.8 is added to the Civil Code, to read:

1834.8. (a) Manufacturers and contract testing facilities shall not use traditional animal test methods within this state for which an appropriate alternative test method has been scientifically validated and recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) and adopted by the relevant federal agency or agencies or program within an agency responsible for regulating the specific product or activity for which the test is being conducted.

(b) Nothing in this section shall prohibit the use of any alternative nonanimal test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by ICCVAM.

(c) Nothing in this section shall prohibit the use of animal tests to comply with requirements of state agencies. Nothing in this section shall prohibit the use of animal tests to comply with requirements of federal agencies when the federal agency has approved an alternative nonanimal test pursuant to subdivision (a) and the federal agency staff concludes that the alternative nonanimal test does not assure the health or safety of consumers.

(d) Notwithstanding any other provision of law, the exclusive remedy for enforcing this section shall be a civil action for injunctive relief brought by the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or a city and county having a population in excess of 750,000 and in

which the violation is alleged to have occurred. If the court determines that the Attorney General or district attorney is the prevailing party in the enforcement action, the official may also recover costs, attorney fees, and a civil penalty not to exceed five thousand dollars ($5,000) in that action.

(e) This section shall not apply to any animal test performed for the purpose of medical research.

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

(1) ''Animal'' means vertebrate nonhuman animal.

(2) ''Manufacturer'' means any partnership, corporation, association, or other legal relationship that produces chemicals, ingredients, product formulations, or products in this state.

(3) ''Contract testing facility'' means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in this state.

(4) ''ICCVAM'' means the Inter-Agency Coordinating Committee for the Validation of Alternative Methods, a federal committee comprised of representatives from 14 federal regulatory or research agencies, including the Food and Drug Administration, Environmental Protection Agency, and Consumer Products Safety Commission, that reviews the validity of alternative test methods. The committee is the federal mechanism for recommending appropriate, valid test methods to relevant federal agencies.

(5) ''Medical research'' means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined in Section 321(g)(1) of Title 21 of the United States Code. Medical research does not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal methods to characterize the ingredient and to substantiate its safety for human use, and is now proposed for use in a product other than a biomedical product, medical device, or drug.

(6) ''Traditional animal test method'' means a process or procedure using animals to obtain information on the characteristics of a chemical or agent. Toxicological test methods generate information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions.

(7) ''Validated alternative test method'' means a test method that does not use animals, or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the ICCVAM report provided to the relevant federal agencies.

(8) ''Person'' means an individual with managerial control, partnership, corporation, association, or other legal relationship.

(9) ''Adopted by a federal agency'' means a final action taken by an agency, published in the Federal Register, for public notice.

CHAPTER 477

An act to add Section 152.3 to the Penal Code, relating to reporting of crimes.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 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, the Sherrice Iverson Child Victim Protection Act.

SEC. 2. Section 152.3 is added to the Penal Code, to read:

152.3. (a) Any person who reasonably believes that he or she has observed the commission of any of the following offenses where the victim is a child under the age of 14 years shall notify a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2:

(1) Murder.

(2) Rape.

(3) A violation of paragraph (1) of subdivision (b) of Section 288 of the Penal Code.

(b) This section shall not be construed to affect privileged relationships as provided by law.

(c) The duty to notify a peace officer imposed pursuant to subdivision (a) is satisfied if the notification or an attempt to provide notice is made by telephone or any other means.

(d) Failure to notify as required pursuant to subdivision (a) is a misdemeanor and is punishable by a fine of not more than one thousand five hundred dollars ($1,500), by imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

(e) The requirements of this section shall not apply to the following:

(1) A person who is related to either the victim or the offender, including a husband, wife, parent, child, brother, sister, grandparent, grandchild, or other person related by consanguinity or affinity.

(2) A person who fails to report based on a reasonable mistake of fact.

(3) A person who fails to report based on a reasonable fear for his or her own safety or for the safety of his or her family.

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 478

An act to amend Sections 417 and 417.6 of the Penal Code, relating to firearms.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 417 of the Penal Code is amended to read:

417. (a) (1) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses a deadly weapon other than a firearm in any fight or quarrel is guilty of a misdemeanor, punishable by imprisonment in a county jail for not less than 30 days.

(2) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses a firearm in any fight or quarrel is punishable as follows:

(A) If the violation occurs in a public place and the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in a county jail for not less than three months and not more than one year, by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

(B) In all cases other than that set forth in subparagraph (A), a misdemeanor, punishable by imprisonment in a county jail for not less than three months.

(b) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses any loaded

firearm in any fight or quarrel upon the grounds of any day care center, as defined in Section 1596.76 of the Health and Safety Code, or any facility where programs, including day care programs or recreational programs, are being conducted for persons under 18 years of age, including programs conducted by a nonprofit organization, during the hours in which the center or facility is open for use, shall be punished by imprisonment in the state prison for 16 months, or two or three years, or by imprisonment in a county jail for not less than three months, nor more than one year.

(c) Every person who, in the immediate presence of a peace officer, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, and who knows, or reasonably should know, by the officer's uniformed appearance or other action of identification by the officer, that he or she is a peace officer engaged in the performance of his or her duties, and that peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in a county jail for not less than nine months and not to exceed one year, or in the state prison.

(d) Except where a different penalty applies, every person who violates this section when the other person is in the process of cleaning up graffiti or vandalism is guilty of a misdemeanor, punishable by imprisonment in a county jail for not less than three months nor more than one year.

(e) As used in this section, ''peace officer'' means any person designated as a peace officer pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(f) As used in this section, ''public place'' means any of the following:

(1) A public place in an incorporated city.

(2) A public street in an incorporated city.

(3) A public street in an unincorporated area.

SEC. 2. Section 417.6 of the Penal Code is amended to read:

417.6. (a) If, in the commission of a violation of Section 417 or 417.8, serious bodily injury is intentionally inflicted by the person drawing or exhibiting the firearm or deadly weapon, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) As used in this section, ''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.

(c) When a person is convicted of a violation of Section 417 or 417.8 and the deadly weapon or firearm used by the person is owned by that

person, the court shall order that the weapon or firearm be deemed a nuisance and disposed of in the manner provided by Section 12028.

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 479

An act relating to crime prevention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. The Department of Justice shall do all of the following:

(a) Produce public service announcements in both English and Spanish to inform the public on:

(1) Changes in firearms laws and how to obtain more information on current laws.

(2) A gun owner's responsibilities for the safe storage of a firearm as included in the Department of Justice Basic Firearms Safety Course and Section 12080 of the Penal Code.

(b) No publicly elected official shall be identified with or involved in the public service announcements. This provision does not preclude the Department of Justice from producing or being identified as the producer of the public service announcements.

(c) The department shall seek public service announcement airtime once the public service announcements have been produced. Nothing in this section shall preclude the Department of Justice from seeking funds to purchase airtime for the public service announcements.

SEC. 2. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund to the Department of Justice, on a one-time basis, for the purposes of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order to protect the public safety by ensuring that the public is informed regarding current firearms laws and safe firearms storage practices.

CHAPTER 480

An act relating to the payment of claims against the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. The sum of forty-eight million two hundred eighty thousand dollars ($48,280,000) is hereby appropriated from the General Fund to the Attorney General for allocation to pay the first of five annual settlement payments to the United States government for the case of Craig Brown v. United States Department of Health and Human Services, et al. (Ninth Circuit Appeal No. 99-1692).

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 settlement claims against the state and relieve the state of additional financial liability as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 481

An act to amend Section 16373 of the Government Code, and to amend Sections 730.6, 1714, 1752.81, 1764.2, and 1767 of the Welfare and Institutions Code, relating to youthful offenders.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

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

SECTION 1. Section 16373 of the Government Code is amended to read:

16373. (a) Money that has remained unclaimed in the hands of any state agency, or for which the claimant cannot be found, may be deposited in the Special Deposit Fund in trust and may be withdrawn in the same manner as other trust money. Unclaimed money of five dollars ($5) or less in an inmate's trust account after he or she has been paroled shall be forfeited, and deposited in the Inmate Welfare Fund of the Department of Corrections in the State Treasury.

(b) When the Director of the Youth Authority has in his or her possession trust account money of an offender committed to or housed in the Department of the Youth Authority, any unclaimed offender trust account money of five dollars ($5) or less shall be forfeited on the date of discharge, or one year from the date of escape or absconding from the Department of the Youth Authority supervision, and shall be deposited in the Benefit Fund to be expended pursuant to Section 1752.5 of the Welfare and Institutions Code.

SEC. 2. Section 730.6 of the Welfare and Institutions Code is amended to read:

730.6. (a) (1) It is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs any economic loss as a result of the minor's conduct shall receive restitution directly from that minor.

(2) Upon a minor being found to be a person described in Section 602, the court shall consider levying a fine in accordance with Section 730.5. In addition, the court shall order the minor to pay, in addition to any other penalty provided or imposed under the law, 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 (h).

(b) In every case where a minor is found to be a person described in Section 602, the court shall impose a separate and additional restitution fine. The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense as follows:

(1) If the minor is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the restitution fine shall not be less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). A separate hearing for the fine shall not be required.

(2) If the minor is found to be a person described in Section 602 by reason of the commission of one or more misdemeanor offenses, the

restitution fine shall not exceed one hundred dollars ($100). A separate hearing for the fine shall not be required.

(c) The restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's inability to pay. This fine shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to Section 13967 of the Government Code.

(d) (1) In setting the amount of the fine pursuant to subparagraph (A) of paragraph (2) of subdivision (a), the court shall consider any relevant factors including, but not limited to, the minor's ability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. The 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 offense.

(2) The consideration of a minor's ability to pay may include his or her future earning capacity. A minor shall bear the burden of demonstrating a lack of his or her ability to pay.

(e) Express findings of the court as to the factors bearing on the amount of the fine shall not be required.

(f) Except as provided in subdivision (g), under no circumstances shall the court fail to impose the separate and additional restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). This fine shall not be subject to penalty assessments pursuant to Section 1464 of the Penal Code.

(g) In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). When a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(h) Restitution ordered pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall be imposed in the amount of the losses, as determined. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record. A minor's inability to pay shall not be considered a compelling or extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of the restitution order. A restitution order pursuant to subparagraph (B) of paragraph (2) of subdivision (a), to the extent possible, shall identify each victim, unless the court for good cause finds that the order should not identify a victim or victims, and the amount of each victim's loss to which it pertains, and shall be of a dollar amount sufficient to fully

reimburse the victim or victims for all determined economic losses incurred as the result of the minor's conduct for which the minor was found to be a person described in Section 602, including all of the following:

(1) 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.

(2) Medical expenses.

(3) 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.

(4) 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.

A minor shall have 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 minor. 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 hearing on the motion. When the amount of victim restitution is not known at the time of disposition, the court order shall identify the victim or victims, unless the court finds for good cause that the order should not identify a victim or victims, and state that the amount of restitution for each victim is to be determined. When feasible, the court shall also identify on the court order, any cooffenders who are jointly and severally liable for victim restitution.

(i) A restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall identify the losses to which it pertains, and shall be enforceable as a civil judgment pursuant to subdivision (r). The making of a restitution order pursuant to this subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, 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 minor or the minor's parent or guardian arising out of the offense for which the minor was found to be a person described in Section 602. Restitution payments made pursuant to this subdivision shall be made to the Restitution Fund to the extent that the victim, as defined in subdivision (j), has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(j) For purposes of this section, "victim" shall include the immediate surviving family of the actual victim.

(k) Nothing in this section shall prevent a court from ordering restitution to 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 an offense.

(*l*) Upon a minor being found to be a person described in Section 602, the court shall require as a condition of probation the payment of restitution fines and orders imposed under this section. Any portion of a restitution order that remains unsatisfied after a minor is no longer on probation shall continue to be enforceable by a victim pursuant to subdivision (r) until the obligation is satisfied in full.

(m) Probation shall not be revoked for failure of a person to make restitution pursuant to this section as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

(n) If the court finds and states on the record compelling and extraordinary reasons why restitution should not be required as provided in paragraph (2) of subdivision (a), the court shall order, as a condition of probation, that the minor perform specified community service.

(o) The court may avoid ordering community service as a condition of probation only if it finds and states on the record compelling and extraordinary reasons not to order community service in addition to the finding that restitution pursuant to paragraph (2) of subdivision (a) should not be required.

(p) When a minor is committed to the Department of the Youth Authority, the court shall order restitution to be paid to the victim or victims, if any. Payment of restitution to the victim or victims pursuant to this subdivision shall take priority in time over payment of any other restitution fine imposed pursuant to this section.

(q) 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.

(r) If the judgment is for a restitution fine ordered pursuant to subparagraph (A) of paragraph (2) of subdivision (a), or a restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a), the judgment may be enforced in the manner provided in Section 1214 of the Penal Code.

SEC. 3. Section 1714 of the Welfare and Institutions Code is amended to read:

1714. (a) It is the intention of the Legislature that the Youthful Offender Parole Board and the Director of the Youth Authority shall cooperate with each other in the establishment of the classification, transfer, discipline, training, and treatment policies of the Department of the Youth Authority, to the end that the objectives of the state youth correctional system can best be attained. The director and the board shall, not less than two times each calendar year, meet for the purpose of discussion of classification, transfer, discipline, training, and treatment policies and problems, and for the purpose of discussion of policies relating to the functions and duties of the board, and it is the intent of the Legislature that whenever possible there shall be agreement on these subjects. However, in order to maintain responsibility for the secure and orderly administration of the Youth Authority, the Director of the Youth Authority shall have the final right to determine the policies on classification, transfer, discipline, training and treatment, and the board shall have the final right to determine the policies on its duties and functions.

(b) The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another. The Youthful Offender Parole Board may request the director to transfer a person who is under the jurisdiction of the department pursuant to Section 1731.5 if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis and treatment of the ward. The director shall as soon as practicable comply with such request, provided that, if facilities are not available he or she shall report that fact to the board and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the director such transfer would endanger security he or she may report that fact to the board and refuse to make such transfer.

SEC. 4. Section 1752.81 of the Welfare and Institutions Code is amended to read:

1752.81. (a) Whenever the Director of the Youth Authority has in his or her possession in trust funds of a ward committed to the authority, the funds may be released for any purpose when authorized by the ward. When the sum held in trust for any ward by the Director of the Youth Authority exceeds five hundred dollars ($500), the amount in excess of five hundred dollars ($500) may be expended by the director pursuant to a lawful order of a court directing payment of the funds, without the authorization of the ward thereto.

(b) Whenever an adult or minor is committed to or housed in a Youth Authority facility and he or she owes a restitution fine imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994, or Section 1202.4 or 1203.04 of the Penal Code,

as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6 or 731.1, as operative on or before August 2, 1995, the Director of the Youth Authority shall deduct the balance owing on the fine amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The director shall transfer that amount to the State Board of Control for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(c) Whenever an adult or minor is committed to, or housed in, a Youth Authority facility and he or she owes restitution to a victim imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994, or Section 1202.4 or 1203.04 of the Penal Code, as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6, or 731.1, as operative on or before August 2, 1995, the Director of the Youth Authority shall deduct the balance owing on the order amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The director shall transfer that amount directly to the victim. If the restitution is owed to a person who has filed an application with the Victims of Crime Program, the director shall transfer that amount to the State Board of Control for direct payment to the victim or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) Any compensatory or punitive damages awarded by trial or settlement to a minor or adult committed to the Department of the Youth Authority in connection with a civil action brought against any federal, state, or local jail or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against the minor or adult. The balance of any award shall be forwarded to the minor or adult committed to the Department of the Youth Authority after full payment of all outstanding restitution orders and restitution fines subject to subdivision (e). The Department of the Youth Authority shall make all reasonable efforts to notify the victims of the crime for which the minor or adult was committed concerning the pending payment of any compensatory or punitive damages. This subdivision shall apply to cases settled or awarded on or after April 26, 1996, pursuant to Sections 807 and 808 of the federal Prison Litigation Reform Act of 1995 (Title 8, P.L. 104-134).

(e) The director shall deduct and retain from the trust account deposits of a ward, unless prohibited by federal law, an administrative fee that

totals 10 percent of any amount transferred pursuant to subdivision (b) and (c), or 5 percent of any amount transferred pursuant to subdivision (d). The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution and victims program of the Department of the Youth Authority. The director, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the restitution and victims program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(f) When a ward has both a restitution fine and a restitution order from the sentencing court, the Department of the Youth Authority shall collect the restitution order first pursuant to subdivision (c).

(g) Notwithstanding subdivisions (a), (b), and (c), whenever the Director of the Youth Authority holds in trust a ward's funds in excess of five dollars ($5) and the ward cannot be located, after one year from the date of discharge, absconding from the Department of the Youth Authority supervision, or escape, the Department of the Youth Authority shall apply the trust account balance to any unsatisfied victim restitution order or fine owed by that ward. If the victim restitution order or fine has been satisfied, the remainder of the ward's trust account balance, if any, shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5. If the victim to whom a particular ward owes restitution cannot be located, the money shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5.

SEC. 5. Section 1764.2 of the Welfare and Institutions Code is amended to read:

1764.2. (a) Notwithstanding any other provision of law, the director or the director's designee shall release the information described in Section 1764 regarding a person committed to the Youth Authority for an offense described in subdivision (a) of Section 676, or an offense described in Section 273.5, 288, or 646.9 of the Penal Code, to the victim of the offense, the next of kin of the victim, or his or her representative as designated by the victim or next of kin pursuant to Section 1767, upon request, unless the court has ordered confidentiality under subdivision (c) of Section 676. The victim or the next of kin shall be identified by the court or the probation department in the offender's commitment documents before the director is required to disclose this information.

(b) The director or the director's designee shall, with respect to persons committed to the Youth Authority, including persons committed to the Department of Corrections who have been transferred to the Youth Authority, for an offense described in subdivision (a) of Section 676, or an offense described in Section 273.5, 288, or 646.9 of the Penal Code, inform each victim of that offense, the victim's next of kin, or his or her

representative as designated by the victim or next of kin pursuant to Section 1767, of his or her right to request and receive information pursuant to subdivision (a) and Section 1767.

SEC. 6. Section 1767 of the Welfare and Institutions Code is amended to read:

1767. (a) Upon request, written notice of any hearing to consider the release on parole of any person under the control of the Youth Authority for the commission of a crime or committed to the authority as a person described in Section 602 shall be sent by the Department of the Youth Authority at least 30 days before the hearing to any victim of a crime committed by the person, or to the next of kin of the victim if the victim has died or is a minor. The requesting party shall keep the board apprised of his or her current mailing address.

(b) Any one of the following persons may appear, personally or by counsel, at the hearing:

(1) The victim of the offense and one support person of his or her choosing.

(2) In the event that the victim is unable to attend the proceeding, two support persons designated by the victim may attend to provide information about the impact of the crime on the victim.

(3) If the victim is no longer living, two members of the victim's immediate family may attend.

(4) If none of those persons appear personally at the hearing, any one of them may submit a statement recorded on videotape for the board's consideration at the hearing. Those persons shall also have the right to submit a written statement to the board at least 10 days prior to the scheduled hearing for the board's consideration at the hearing.

(c) The board, in deciding whether to release the person on parole, shall consider the statements of victims, next of kin, or statements made on their behalf pursuant to this section and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole. The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(d) A representative designated by the victim or the victim's next of kin shall be either that person's legal counsel or a family or household member of the victim, for the purposes of this section.

(e) Support persons may only provide information about the impact of the crime on the victim and provide physical and emotional support to the victim or the victim's family.

(f) Nothing in this section shall prevent the board from excluding a victim or his or her support person or persons from a hearing. The board

may allow the presence of other support persons under particular circumstances surrounding the proceeding.

CHAPTER 482

An act to amend Section 31470.2 of, and to add Sections 20441.5 and 31639.76 to, the Government Code, relating to county employees' retirement.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 20441.5 is added to the Government Code, to read:

20441.5. ''County peace officer'' shall also include persons employed by the county parks and recreation department in the Park Ranger class series whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention.

This section shall not apply to the employees of any contracting agency nor to any agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

This section shall only be applicable in Santa Clara County.

SEC. 2. Section 31470.2 of the Government Code is amended to read:

31470.2. (a) All sheriffs, undersheriffs, chief deputies sheriff, jailers, turnkeys, deputies sheriff, bailiffs, constables, deputies constable, motorcycle officers, aircraft pilots, heads and assistant heads of all divisions of the office of the sheriff, detectives and investigators in the office of the district attorney, marshals, court service officers only in a county of the third class, as defined in Sections 28020 and 28024, and all regularly appointed deputy marshals are eligible.

(b) In a county of the eighth class, as defined in Sections 28020 and 28029, both as amended by Chapter 1204 of the Statutes of 1971, all peace officers in the Park Ranger class series in the Department of Regional Parks, Recreation, and Open Space are eligible. This subdivision shall not be operative until such time as the county board of supervisors shall, by resolution adopted by a majority vote, make this subdivision applicable in the county.

SEC. 3. Section 31639.76 is added to the Government Code, to read:

31639.76. Notwithstanding Section 31639.7, a safety member described in subdivision (b) of Section 31470.2 may receive credit as a safety member for all or any part of the time during which he or she was not within the field of membership as a safety member to the extent and subject to the terms and conditions provided in a memorandum of understanding between the employer and the designated employee representative.

This section shall apply only to a county of the eighth class, as defined in Sections 28020 and 28029, both as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors in that county has elected to make subdivision (b) of Section 31470.2 applicable in the county.

CHAPTER 483

An act to amend Sections 20178 and 21337 of, and to add Section 21337.1 to, the Government Code, relating to public employees' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 20178 of the Government Code is amended to read:

20178. (a) The board shall credit all contributions of members in the retirement fund with interest at an interest crediting rate of 6 percent compounded at each June 30. The retired member reserves in the retirement fund shall be credited with the lesser of the current actuarial interest rate or the current annual interest rate compounded at each June 30. The interest amount that would have been credited to the member's account on and after June 30, 1991, had the account been credited with the lesser of the current actuarial interest rate or the current annual interest rate, rather than at the 6-percent interest crediting rate, shall be credited to retired member reserves.

(b) Notwithstanding subdivision (a), the difference between the interest amount that was credited to the account of any state or school member of this system who was paid his or her accumulated contributions on or after June 30, 1991, and the lesser of the current actuarial interest rate or the current annual interest rate, shall be transferred to the state or school account, as appropriate, established by the board under Section 21337 to fund the purchasing power protection

allowance for retirees, survivors, or beneficiaries of state or school employers.

(c) Notwithstanding subdivisions (a) and (b), if the current net earnings rate for state or school members exceeds the interest rate used to credit the retired member accounts of state or school employers, in addition to the amounts transferred to the separate accounts established for state and school employers under Section 21337, the remaining amounts shall be credited to employer accounts.

(d) The current annual interest rate may be lower than the current actuarial interest rate.

SEC. 2. Section 21337 of the Government Code is amended to read:

21337. (a) On an annual basis, the board shall transfer funds to separate supplemental state and school accounts, to fund the purchasing power protection allowance of retirees, survivors, and beneficiaries of state or school employers, respectively. The amounts transferred shall be the lesser of the following:

(1) The amount necessary to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state or school employers to 75 percent of the purchasing power of the initial monthly allowances.

(2) 1.1 percent of the net earnings on state or school member contributions, as determined by Section 20178.

(b) The funds transferred to the two separate supplemental accounts shall be utilized to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state and school employers, up to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances, notwithstanding the benefit provided by Section 21328, that were received by every retired state or school member or survivor or beneficiary of a state or school member or retiree who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the state or school account after the payment of benefits under this section shall be transferred to the respective state or school employer accounts.

SEC. 3. Section 21337.1 is added to the Government Code, to read:

21337.1. (a) As of January 1, 2001, and annually thereafter, all monthly allowances paid by the system to retirees of contracting public agencies, and to survivors and beneficiaries of members and retirees of those agencies, shall be increased to 80 percent of the purchasing power of the initial monthly allowance as determined by the board.

(b) Notwithstanding subdivision (a), retirees of contracting public agencies, and survivors and beneficiaries of members and retirees of those agencies, who receive a monthly allowance payable by this system shall also receive, on or after January 1, 2001, a one-time lump-sum payment in an amount equal to the difference, if any, between the

purchasing power protection allowance paid between January 1, 2000, and December 31, 2000, and the purchasing power protection allowance that would have been payable if this section had been operative during that period.

(c) The cost of the increase in allowances paid pursuant to subdivisions (a) and (b) shall be paid from the same assets of the employer used in the determination of each employer contribution rate for each membership classification under which service was credited that affects the allowance calculation of the retirees, survivors, or beneficiaries.

SEC. 4. This act shall be operative on July 1, 2000.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to limit the erosion of the purchasing power of monthly allowances paid to retirees, survivors, and beneficiaries of contracting agencies, it is necessary that this act take effect immediately.

CHAPTER 484

An act to add Section 3060.6 to the Penal Code, relating to parole.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 3060.6 is added to the Penal Code, to read:

3060.6. Notwithstanding any other provision of law, on or after January 1, 2001, whenever any paroled person is returned to custody or has his or her parole revoked for conduct described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the parole authority shall report the circumstances that were the basis for the return to custody or revocation of parole to the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and to the Department of Corrections. Upon the release of the paroled person, the Department of Corrections shall inform the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and, if different, the county in which the person is paroled or discharged,

of the circumstances that were the basis for the return to custody or revocation of parole.

CHAPTER 485

An act to amend Sections 158, 202, 301.5, 305, 306, 503, 602, 603, 5220, 5512, 7220, 7512, 9220, 9412, 12360, 12462, 25014.7, 25100, 25101, and 25117 of, and to add Section 163.1 to, the Corporations Code, and to amend Section 11521.2 of the Insurance Code, relating to corporations.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 158 of the Corporations Code is amended to read:

158. (a) ''Close corporation'' means a corporation whose articles contain, in addition to the provisions required by Section 202, a provision that all of the corporation's issued shares of all classes shall be held of record by not more than a specified number of persons, not exceeding 35, and a statement ''This corporation is a close corporation.''

(b) The special provisions referred to in subdivision (a) may be included in the articles by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of all of the issued and outstanding shares of all classes.

(c) The special provisions referred to in subdivision (a) may be deleted from the articles by amendment, or the number of shareholders specified may be changed by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of at least two-thirds of each class of the outstanding shares; provided, however, that the articles may provide for a lesser vote, but not less than a majority of the outstanding shares, or may deny a vote to any class, or both.

(d) In determining the number of shareholders for the purposes of the provision in the articles authorized by this section, a husband and wife and the personal representative of either shall be counted as one regardless of how shares may be held by either or both of them, a trust or personal representative of a decedent holding shares shall be counted as one regardless of the number of trustees or beneficiaries and a partnership or corporation or business association holding shares shall be counted as one (except that any such trust or entity the primary

purpose of which was the acquisition or voting of the shares shall be counted according to the number of beneficial interests therein).

(e) A corporation shall cease to be a close corporation upon the filing of an amendment to its articles pursuant to subdivision (c) or if it shall have more than the maximum number of holders of record of its shares specified in its articles as a result of an inter vivos transfer of shares which is not void under subdivision (d) of Section 418, the transfer of shares on distribution by will or pursuant to the laws of descent and distribution, the dissolution of a partnership or corporation or business association or the termination of a trust which holds shares, by court decree upon dissolution of a marriage or otherwise by operation of law. Promptly upon acquiring more than the specified number of holders of record of its shares, a close corporation shall execute and file an amendment to its articles deleting the special provisions referred to in subdivision (a) and deleting any other provisions not permissible for a corporation which is not a close corporation, which amendment shall be promptly approved and filed by the board and need not be approved by the outstanding shares.

(f) Nothing contained in this section shall invalidate any agreement among the shareholders to vote for the deletion from the articles of the special provisions referred to in subdivision (a) upon the lapse of a specified period of time or upon the occurrence of a certain event or condition or otherwise.

(g) The following sections contain specific references to close corporations: 186, 202, 204, 300, 418, 421, 1111, 1201, 1800 and 1904.

SEC. 2. Section 163.1 is added to the Corporations Code, to read:

163.1. For purposes of Section 503, ''cumulative dividends in arrears'' means only cumulative dividends that have not been paid as required on a scheduled payment date set forth in, or determined pursuant to, the articles of incorporation, regardless of whether those dividends had been declared prior to that scheduled payment date.

SEC. 3. Section 202 of the Corporations Code is amended to read:

202. The articles of incorporation shall set forth:

(a) The name of the corporation; provided, however, that in order for the corporation to be subject to the provisions of this division applicable to a close corporation (Section 158), the name of the corporation must contain the word ''corporation'', ''incorporated'' or ''limited'' or an abbreviation of one of such words.

(b) (1) The applicable one of the following statements:

(i) The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code; or

(ii) The purpose of the corporation is to engage in the profession of ____ (with the insertion of a profession permitted to be incorporated by the California Corporations Code) and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations.

(2) In case the corporation is a corporation subject to the Banking Law, the articles shall set forth a statement of purpose which is prescribed in the applicable provision of the Banking Law.

(3) In case the corporation is a corporation subject to the Insurance Code as an insurer, the articles shall additionally state that the business of the corporation is to be an insurer.

(4) If the corporation is intended to be a ''professional corporation'' within the meaning of the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3), the articles shall additionally contain the statement required by Section 13404.

The articles shall not set forth any further or additional statement with respect to the purposes or powers of the corporation, except by way of limitation or except as expressly required by any law of this state other than this division or any federal or other statute or regulation (including the Internal Revenue Code and regulations thereunder as a condition of acquiring or maintaining a particular status for tax purposes).

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 1502.

(d) If the corporation is authorized to issue only one class of shares, the total number of shares which the corporation is authorized to issue.

(e) If the corporation is authorized to issue more than one class of shares, or if any class of shares is to have two or more series:

(1) The total number of shares of each class the corporation is authorized to issue, and the total number of shares of each series which the corporation is authorized to issue or that the board is authorized to fix the number of shares of any such series;

(2) The designation of each class, and the designation of each series or that the board may determine the designation of any such series; and

(3) The rights, preferences, privileges and restrictions granted to or imposed upon the respective classes or series of shares or the holders thereof, or that the board, within any limits and restrictions stated, may determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued class of shares or any wholly unissued series of any class of shares. As to any series the number of shares of which is authorized to be fixed by the board, the articles may also authorize the board, within the limits and restrictions stated therein or stated in any resolution or resolutions of the board originally fixing

the number of shares constituting any series, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

SEC. 4. Section 301.5 of the Corporations Code is amended to read:

301.5. (a) A listed corporation may, by amendment of its articles or bylaws, adopt provisions to divide the board of directors into two or three classes to serve for terms of two or three years respectively, or to eliminate cumulative voting, or both. After the issuance of shares, a corporation which is not a listed corporation may, by amendment of its articles or bylaws, adopt provisions to be effective when the corporation becomes a listed corporation to divide the board of directors into two or three classes to serve for terms of two or three years respectively, or to eliminate cumulative voting, or both. An article or bylaw amendment providing for division of the board of directors into classes, or any change in the number of classes, or the elimination of cumulative voting may only be adopted by the approval of the board and the outstanding shares (Section 152) voting as a single class, notwithstanding Section 903.

(b) If the board of directors is divided into two classes pursuant to subdivision (a), the authorized number of directors shall be no less than six and one-half of the directors or as close an approximation as possible shall be elected at each annual meeting of shareholders. If the board of directors is divided into three classes, the authorized number of directors shall be no less than nine and one-third of the directors or as close an approximation as possible shall be elected at each annual meeting of shareholders. Directors of a listed corporation may be elected by classes at a meeting of shareholders at which an amendment to the articles or bylaws described in subdivision (a) is approved, but the extended terms for directors are contingent on that approval, and in the case of an amendment to the articles, the filing of any necessary amendment to the articles pursuant to Section 905 or 910.

(c) If directors for more than one class are to be elected by the shareholders at any one meeting of shareholders and the election is by cumulative voting pursuant to Section 708, votes may be cumulated only for directors to be elected within each class.

(d) For purposes of this section, a ''listed corporation'' means any of the following:

(1) A corporation with outstanding shares listed on the New York Stock Exchange or the American Stock Exchange.

(2) A corporation with outstanding securities listed on the National Market System of the Nasdaq Stock Market (or any successor to that entity).

(e) Subject to subdivision (h), if a listed corporation having a board of directors divided into classes pursuant to subdivision (a) ceases to be a listed corporation for any reason, unless the articles of incorporation or bylaws of the corporation provide for the elimination of classes of directors at an earlier date or dates, the board of directors of the corporation shall cease to be divided into classes as to each class of directors on the date of the expiration of the term of the directors in that class and the term of each director serving at the time the corporation ceases to be a listed corporation (and the term of each director elected to fill a vacancy resulting from the death, resignation, or removal of any of those directors) shall continue until its expiration as if the corporation had not ceased to be a listed corporation.

(f) Subject to subdivision (h), if a listed corporation having a provision in its articles or bylaws eliminating cumulative voting pursuant to subdivision (a) or permitting noncumulative voting in the election of directors pursuant to that subdivision, or both, ceases to be a listed corporation for any reason, the shareholders shall be entitled to cumulate their votes pursuant to Section 708 at any election of directors occurring while the corporation is not a listed corporation notwithstanding that provision in its articles of incorporation or bylaws.

(g) Subject to subdivision (i), if a corporation that is not a listed corporation adopts amendments to its articles of incorporation or bylaws to divide its board of directors into classes or to eliminate cumulative voting, or both, pursuant to subdivision (a) and then becomes a listed corporation, unless the articles of incorporation or bylaws provide for those provisions to become effective at some other time and, in cases where classes of directors are provided for, identify the directors who, or the directorships that, are to be in each class or the method by which those directors or directorships are to be identified, the provisions shall become effective for the next election of directors after the corporation becomes a listed corporation at which all directors are to be elected.

(h) If a corporation ceases to be a listed corporation on or after the record date for a meeting of shareholders and prior to the conclusion of the meeting, including the conclusion of the meeting after an adjournment or postponement that does not require or result in the setting of a new record date, then, solely for purposes of subdivisions (e) and (f), the corporation shall not be deemed to have ceased to be a listed corporation until the conclusion of the meeting of shareholders.

(i) If a corporation becomes a listed corporation on or after the record date for a meeting of shareholders and prior to the conclusion of the meeting, including the conclusion of the meeting after an adjournment

or postponement that does not require or result in the setting of a new record date, then, solely for purposes of subdivision (g), the corporation shall not be deemed to have become a listed corporation until the conclusion of the meeting of shareholders.

(j) If an article amendment referred to in subdivision (a) is adopted by a listed corporation, the certificate of amendment shall include a statement of the facts showing that the corporation is a listed corporation within the meaning of subdivision (d). If an article or bylaw amendment referred to in subdivision (a) is adopted by a corporation which is not a listed corporation, the provision, as adopted, shall include the following statement or the substantial equivalent: ''This provision shall become effective only when the corporation becomes a listed corporation within the meaning of Section 301.5 of the Corporations Code.''

SEC. 5. Section 305 of the Corporations Code is amended to read:

305. (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director, vacancies on the board may be filled by approval of the board (Section 151) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 307 or (3) a sole remaining director. Unless the articles or a bylaw adopted by the shareholders provide that the board may fill vacancies occurring in the board by reason of the removal of directors, such vacancies may be filled only by approval of the shareholders (Section 153).

(b) The shareholders may elect a director at any time to fill any vacancy not filled by the directors. Any such election by written consent other than to fill a vacancy created by removal, which requires the unanimous consent of all shares entitled to vote for the election of directors, requires the consent of a majority of the outstanding shares entitled to vote.

(c) If, after the filling of any vacancy by the directors, the directors then in office who have been elected by the shareholders shall constitute less than a majority of the directors then in office, then both of the following shall be applicable:

(1) Any holder or holders of an aggregate of 5 percent or more of the total number of shares at the time outstanding having the right to vote for those directors may call a special meeting of shareholders, or

(2) The superior court of the proper county shall, upon application of such shareholder or shareholders, summarily order a special meeting of shareholders, to be held to elect the entire board. The term of office of any director shall terminate upon that election of a successor.

The hearing on any application filed pursuant to this subdivision shall be held on not less than 10 business days notice to the corporation. If the

corporation intends to oppose the application, it shall file with the court a notice of opposition not later than five business days prior to the date set for the hearing. The application and any notice of opposition shall be supported by appropriate affidavits and the court's determination shall be made on the basis of the papers in the record; but, for good cause shown, the court may receive and consider at the hearing additional evidence, oral or documentary, and additional points and authorities. The hearing shall take precedence over all other matters not of a similar nature pending on the date set for the hearing.

(d) Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

SEC. 6. Section 306 of the Corporations Code is amended to read:

306. If (a) a corporation has not issued shares and all the directors resign, die, or become incompetent, or (b) a corporation's initial directors have not been named in the articles, and all the incorporators resign, die, or become incompetent prior to the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 7. Section 503 of the Corporations Code is amended to read:

503. Neither a corporation nor any of its subsidiaries shall make any distribution to the corporation's shareholders (Section 166) on any shares of its stock of any class or series that are junior to outstanding shares of any other class or series with respect to payment of dividends, and as to which senior class or series the corporation has cumulative dividends in arrears, unless the amount of the retained earnings of the corporation immediately prior thereto equals or exceeds the amount of the proposed distribution plus the aggregate amount of the cumulative dividends in arrears on all shares having a preference with respect to payment of dividends over the class or series to which the distribution is made; provided, however, that for the purpose of applying this section to a distribution by a corporation of cash or property in payment by the corporation in connection with the purchase of its shares, there shall be added to retained earnings all amounts that had been previously deducted therefrom with respect to obligations incurred in connection with the corporation's repurchase of its shares and reflected on the corporation's balance sheet, but not in excess of the principal of the obligations that remain unpaid immediately prior to the distribution; provided, further, that no addition to retained earnings shall occur on account of any obligation that is a distribution to the corporation's shareholders (Section 166) at the time the obligation is incurred.

SEC. 8. Section 602 of the Corporations Code is amended to read:

602. (a) Unless otherwise provided in the articles, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the shareholders, but in no event shall a quorum consist of less than one-third (or, in the case of a mutual water company, 20 percent) of the shares entitled to vote at the meeting or, except in the case of a close corporation, of more than a majority of the shares entitled to vote at the meeting. Except as provided in subdivision (b), the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this division or the articles.

(b) The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum or, if required by this division or the articles, the vote of a greater number or voting by classes.

(c) In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (b).

SEC. 9. Section 603 of the Corporations Code is amended to read:

603. (a) Unless otherwise provided in the articles, any action which may be taken at any annual or special meeting of shareholders may be taken without a meeting and without prior notice, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) Unless the consents of all shareholders entitled to vote have been solicited in writing,

(1) Notice of any shareholder approval pursuant to Section 310, 317, 1201 or 2007 without a meeting by less than unanimous written consent shall be given at least 10 days before the consummation of the action authorized by such approval, and

(2) Prompt notice shall be given of the taking of any other corporate action approved by shareholders without a meeting by less than unanimous written consent,

to those shareholders entitled to vote who have not consented in writing. Subdivision (b) of Section 601 applies to such notice.

(c) Any shareholder giving a written consent, or the shareholder's proxyholders, or a transferee of the shares or a personal representative of the shareholder or their respective proxyholders, may revoke the consent by a writing received by the corporation prior to the time that written consents of the number of shares required to authorize the proposed action have been filed with the secretary of the corporation, but may not do so thereafter. Such revocation is effective upon its receipt by the secretary of the corporation.

(d) Notwithstanding subdivision (a), directors may not be elected by written consent except by unanimous written consent of all shares entitled to vote for the election of directors; provided that the shareholders may elect a director to fill a vacancy, other than a vacancy created by removal, by the written consent of a majority of the outstanding shares entitled to vote.

SEC. 10. Section 5220 of the Corporations Code is amended to read:

5220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided

in the bylaws, to the consent of the person or persons entitled to designate or select any such director or directors.

(e) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 11. Section 5512 of the Corporations Code is amended to read:

5512. (a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 5511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by this division or the articles or the bylaws, the vote of a greater number or voting by classes.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 12. Section 7220 of the Corporations Code is amended to read:

7220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group

need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034).

(e) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 13. Section 7512 of the Corporations Code is amended to read:

7512. (a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact

business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by this division, or by the articles or the bylaws, the vote of the greater number or voting by classes.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 14. Section 9220 of the Corporations Code is amended to read:

9220. (a) The articles or bylaws may provide for the tenure, election, selection, designation, removal, and resignation of directors.

(b) In the absence of any provision in the articles or bylaws, the term of directors shall be one year.

(c) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(d) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 15. Section 9412 of the Corporations Code is amended to read:

9412. (a) One-third of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.

(b) The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by this division, or by the articles or the bylaws, the vote of the greater number or voting by classes.

(c) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (b).

SEC. 16. Section 12360 of the Corporations Code is amended to read:

12360. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the terms shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members.

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may prescribe requirements for eligibility for election as a director.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (f) of Section 12362. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 12224).

(e) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 17. Section 12462 of the Corporations Code is amended to read:

12462. (a) The lesser of 250 members or members representing 5 percent of the voting power, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 12224). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a corporation is authorized to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended by less than one-third of the voting power are matters notice of the general

nature of which was given, pursuant to the first sentence of subdivision (a) of Section 12461.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by this division or the articles or the bylaws, the vote of the greater number or voting by classes.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented in person, but no other business may be transacted, except as provided in subdivision (c).

SEC. 18. Section 25014.7 of the Corporations Code is amended to read:

25014.7. (a) ''Eligible rollup transaction'' means a rollup transaction in which the new securities issued are either listed or approved for listing on a national securities exchange or on the National Market System of the Nasdaq Stock Market (or any successor to that entity), where the national securities exchange and the Nasdaq Stock Market (or its successor) have been certified by the commissioner under subdivision (o) of Section 25100, if the exchange or Nasdaq Stock Market (or its successor) requires as a condition to listing or designation that the rollup transaction be conducted in accordance with procedures to protect the rights of limited partners.

(b) The rights of limited partners will be presumed to be protected if the rollup transaction provides for the right of dissenting limited partners:

(1) To receive compensation for their limited partnership units based on an appraisal of the limited partnership assets performed by an independent appraiser unaffiliated with the sponsor or general partner of the limited partnership and which value the assets as if sold in an orderly manner in a reasonable period of time, plus or minus other balance sheet items, and less the cost of sale or refinancing. Compensation to dissenting limited partners of rollup transactions may be cash, secured debt instruments, unsecured debt instruments, or freely tradeable securities; provided, however, that:

(A) Rollups which utilize debt instruments as compensation provide for a trustee and an indenture to protect the rights of the debt holders and provide a rate of interest based upon, but not less than, the then applicable federal rate as determined in accordance with Section 1274 of the Internal Revenue Code of 1986.

(B) Rollups which utilize unsecured debt instruments as compensation, in addition to the requirements of subparagraph (A) of

paragraph (1), limit total leverage to 70 percent of the appraised value of the assets.

(C) All debt securities have a term no greater than seven years and provide for prepayment with 80 percent of the net proceeds of any sale or refinancing of the assets previously owned by the entity or any part thereof.

(D) Freely tradeable securities utilized as compensation to dissenting limited partners must be issued by an issuer whose securities are listed on a certified national securities exchange or listed on the National Market System of the Nasdaq Market System (or its successor), if so certified, for at least one year prior to the transaction, and the number of securities to be received in return for limited partnership interests must be determined by an appraisal of limited partnership assets, conducted in a manner consistent with paragraph (1) of subdivision (b), in relation to the average last sale price of the freely tradeable securities in the 20-day period following the transaction. If the issuer of the freely tradeable securities is affiliated with the sponsor or general partner, newly issued securities to be utilized as compensation to dissenting limited partners shall not represent more than 20 percent of the issued and outstanding shares of that class of securities after giving effect to the issuance. For the purposes of the preceding sentence, a sponsor or general partner is ''affiliated'' with the issuer of the freely tradeable securities if the sponsor or general partner receives any material compensation from the issuer or its affiliates in conjunction with the rollup transaction or the purchase of the general partner's interest; provided, however, that nothing herein shall restrict the ability of a sponsor or general partner to receive any payment for its equity interests and compensation as otherwise provided by this section.

(2) To receive or retain a security with substantially the same terms and conditions as the security originally held, provided that the receipt or retention of that security is not a step in a series of subsequent transactions that directly or indirectly through acquisition or otherwise involves future combinations or reorganizations of one or more rollup participants. Securities received or retained will be considered to have the same terms and conditions as the security originally held if:

(A) There is no material adverse change to dissenting limited partners' rights, including, but not limited to, rights with respect to voting, the business plan, or the investment, distribution, management compensation and liquidation policies of the limited partnership or resulting entity.

(B) The dissenting limited partners receive the same preferences, privileges, and priorities as they had pursuant to the security originally held.

The rights set forth in paragraphs (1) and (2) are the only rights of dissenting limited partners to which the presumption under subdivision (b) applies. A general partner or sponsor shall file an application for qualification pursuant to Section 25110 or Section 25120 with respect to any other rights proposed to be offered to dissenting limited partners.

At the time a registration statement is filed with the Securities and Exchange Commission with respect to an eligible rollup transaction, a general partner or sponsor shall notify, to the maximum extent permitted by the federal securities laws, each limited partner who has an address in this state by certified mail of the following: That a registration statement has been filed with the Securities and Exchange Commission with respect to a rollup transaction; that the general partner or sponsor claims an exemption from the review process under the law by virtue of Section 25014.7, which defines ''eligible rollup transaction''; that the general partner or sponsor has the burden of proof under the law that the transaction meets the definition of eligible rollup transaction; and that the commissioner does not recommend or endorse the transaction.

(c) The rights of limited partners shall be presumed not to be protected if the general partner:

(1) Converts an equity interest in the limited partnerships subject to a rollup for which consideration was not paid and which was not otherwise provided for in the limited partnership agreement and disclosed to limited partners, into a voting interest in the new entity, provided, however, an interest originally obtained in order to comply with the provisions of Internal Revenue Service Revenue Proclamation 89-12 may be converted.

(2) Fails to follow the valuation provisions in the limited partnership agreements of the subject limited partners when valuing their limited partnership interests.

(3) Utilizes a future value of their equity interest rather than the current value of their equity interest, as determined by an appraisal conducted in a manner consistent with paragraph (1) of subdivision (b), when determining their interest in the new entity.

(d) The rights of limited partners shall be presumed not to be protected as to voting rights, if:

(1) The voting rights in the entity resulting from a rollup do not generally follow the original voting rights of the limited partnerships participating in the rollup transaction.

(2) A majority of the interest in an entity resulting from a rollup transaction may not, without concurrence by the sponsor, general partners, board of directors or trustee, depending on the form of entity, vote to:

(A) Amend the limited partnership agreement, articles of incorporation or bylaws, or indenture.

(B) Dissolve the entity.

(C) Remove management and elect new management.

(D) Approve or disapprove the sale of substantially all of the assets of the entity.

(3) The general partner or sponsor proposing a rollup is not required to provide each person whose equity interest is subject to the rollup transaction with a document which instructs the person on the proper procedure for voting against or dissenting from the rollup transaction.

(4) The general partner or sponsor does not utilize an independent third party to receive and tabulate all votes and dissents, and require that the third party make the tabulation available to the general partner and any limited partner upon request at any time during and after voting occurs.

(e) The rights of limited partners shall be presumed not to be protected as to transaction costs if:

(1) Limited partners bear an unfair portion of the transaction costs of a proposed rollup transaction that is rejected. For purposes of this provision, transaction costs are defined as the costs of printing and mailing the proxy, prospectus, or other documents; legal fees not related to the solicitation of votes or tenders; financial advisory fees; investment banking fees; appraisal fees; accounting fees; independent committee expenses; travel expenses; and all other fees related to the preparatory work of the transaction, but not including costs that would have otherwise been incurred by the subject limited partnerships in the ordinary course of business, or solicitation expenses.

(2) Transaction costs of a rejected rollup transaction are not apportioned between general and limited partners of the subject limited partnerships according to the final vote on the proposed transaction as follows:

(A) The general partner or sponsor bears all rollup transaction costs in proportion to the number of votes to reject the rollup transaction.

(B) Limited partners bear transaction costs in proportion to the number of votes to approve the rollup transaction.

(3) The dissenting limited partnership is required to pay any of the costs of the rollup transaction and the general partner or sponsor is not required to pay the rollup transaction costs on behalf of the dissenting limited partnerships in a rollup in which one or more limited partnerships determines not to approve the transaction, but where the rollup transaction is consummated with respect to one or more approving limited partnerships.

(f) The rights of limited partners shall be presumed not to be protected as to fees of general partners and sponsors, if:

(1) General partners and sponsors are not prevented from receiving both unearned management fees discounted to a present value, if those

fees were not previously provided for in the limited partnership agreement and disclosed to limited partners, and new asset-based fees.

(2) Property management fees and other management fees are not appropriate, not reasonable and greater than what would be paid to third parties for performing similar services.

(3) Changes in fees which are substantial and adverse to limited partners are not approved by an independent committee according to the facts and circumstances of each transaction.

(g) A general partner or sponsor proposing a rollup transaction shall pay all solicitation expenses related to the transaction, including all preparatory work related thereto, in the event the rollup transaction is not approved. For purposes of this section, ''solicitation expenses'' include direct marketing expenses such as telephone calls, broker-dealer fact sheets, legal and other fees related to the solicitation, as well as direct solicitation compensation to brokers and dealers.

(h) A broker or dealer may not receive compensation for soliciting votes or tenders from limited partners in connection with a rollup transaction unless that compensation:

(1) Is payable and equal in amount regardless of whether the limited partner votes affirmatively or negatively in the proposed rollup.

(2) In the aggregate, does not exceed 2 percent of the exchange value of the newly created securities.

(3) Is paid regardless of whether the limited partners reject the proposed rollup transaction.

(i) As used in this section, the following terms have the following meanings:

(1) ''Limited partnership'' includes any entity determined to be a ''partnership'' pursuant to Section 14(h)(4)(B) of the Securities Exchange Act of 1934 or such other entity having a substantially economically equivalent form of ownership instrument.

(2) ''Dissenting limited partner'' means a holder or a beneficial interest in a limited partnership that is the subject of a rollup transaction who casts a vote against the rollup transaction, except that for purposes of an exchange or tender offer dissenting limited partner means any person who files a dissent from the terms of the transaction with the party responsible for tabulating the votes or tenders, to be received in connection with the transaction during the period in which the offer is outstanding.

(3) ''Management fee'' means a fee paid to the sponsor, general partner, their affiliates, or other persons for management and administration of the limited partnership.

SEC. 19. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Commissioner of Financial Institutions of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to: (1) any investment contract sold or offered for sale with, or as part of, that interest, or (2) any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use that is not a public utility except that the exemption is applicable to any security of a mutual water company (other than an investment contract as described in paragraph (1)) offered or sold in connection with subdivided lands pursuant to Chapter 2 (commencing with Section 14310) of Part 7 of Division 3 of Title 1.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding

a license or certificate of authority then in force from the Commissioner of Financial Institutions of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or its successor or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of that company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by that authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of that nonprofit organization or from remuneration received from that nonprofit organization.

(k) Any agreement, commonly known as a ''life income contract,'' of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or

of that renewal, provided that the paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of those securities when the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets those requirements shall be conclusive evidence that the plan is an employees' pension, profit-sharing, stock bonus or similar benefit plan within the meaning of the first sentence of this subdivision until the date the determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange or on the National Market System of the Nasdaq Stock Market (or any successor to that entity), if the exchange or Nasdaq Stock Market (or its successor) has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security. The exemption afforded by this subdivision does not apply to securities listed or approved for listing upon notice of issuance on a national securities exchange or on the National Market System of the Nasdaq Stock Market (or its successor), in a rollup transaction unless the rollup transaction is an eligible rollup transaction as defined in Section 25014.7.

That certification of any exchange or the Nasdaq Stock Market (or its successor) shall be made by the commissioner upon the written request of the exchange or Nasdaq Stock Market (or its successor) if the commissioner finds that the exchange or Nasdaq Stock Market (or its successor): (i) in acting on applications for listing of common stock substantially applies the minimum standards set forth in either alternative (A) or (B) of paragraph (1), and (ii) in considering suspension or removal from listing, substantially applies each of the criteria set forth in paragraph (2).

(1) Listing standards:

(A) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange or Nasdaq Stock Market (or its successor) may also consider the listing of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing under this trading provision, the exchange or Nasdaq Stock Market (or its successor) shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security that trades infrequently shall not be considered for listing under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars ($3) per share for a reasonable period of time prior to the filing of a listing application; provided, however, in certain instances an exchange or Nasdaq Stock Market (or its successor) may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors, including market conditions in general, whether historically the issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).

(B) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Minimum public distribution set forth in clause (iii) of subparagraph (A) of paragraph (1).

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company that (A) has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.

A national securities exchange or Nasdaq Stock Market (or its successor), certified by rule or order of the commissioner under this subdivision, shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer: the variances granted to an exchange's listing standards or Nasdaq Stock Market's (or its successor) criteria, including variances from corporate governance and voting rights' standards, for any security of that issuer; the reasons for the variances; a discussion of the review procedure instituted by the exchange or Nasdaq Stock Market (or its successor) to determine the effect of the variances on investors and whether the variances should be continued; and any other information that the commissioner deems relevant. The purpose of these reports is to assist the commissioner in determining whether the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange in general or with regard to any particular security.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may, in his or her discretion, by rule or order, decertify any exchange or Nasdaq Stock Market (or its successor) previously certified that ceases substantially to apply the minimum standards or criteria as set forth in paragraphs (1) and (2).

A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange, or listed on the National Market System of the Nasdaq Stock Market (or its successor), named in a rule or order of certification, and

any warrant or right to purchase or subscribe to that security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange or the Nasdaq Stock Market (or its successor).

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, that qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may, in the commissioner's discretion, bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, a restraining order, or a writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before

the commissioner, or the officer designated by the commissioner, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(6) The cost of any review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

The recoverable cost of each review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall not exceed twenty-five thousand dollars ($25,000), except that costs exceeding twenty-five thousand dollars ($25,000) shall be recoverable if the costs are necessary to prevent a violation of any provision of Section 1280.7 of the Insurance Code.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of that corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This

exemption does not apply to nonvoting shares or memberships of that corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation. This exemption also does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).

(s) Any security consisting of or representing an interest in a pool of mortgage loans that meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Commissioner of Financial Institutions, and each of which at the time of transfer to the pool is an authorized investment for the originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) The security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) The security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

(t) (1) Any security issued or guaranteed by and representing an interest in or a direct obligation of an industrial loan company incorporated under the laws of the state and authorized by the Commissioner of Financial Institutions to engage in industrial loan business.

(2) Any investment certificate in or issued by any industrial loan company that is organized under the laws of a state of the United States other than this state, that is insured by the Federal Deposit Insurance Corporation, and that maintains a branch office in this state.

SEC. 20. Section 25101 of the Corporations Code is amended to read:

25101. The following securities are exempt from the provisions of Section 25130:

(a) Any security issued by a person that is the issuer of any security listed on a national securities exchange, or on the National Market System of the Nasdaq Stock Market (or any successor to that entity), if the exchange or Nasdaq Stock Market (or its successor) is certified by rule or order of the commissioner.

(b) The exemption provided by subdivision (a) does not apply to securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to the exemption afforded by Regulation A under that act if the aggregate offering price of the securities offered pursuant to that exemption exceeds fifty thousand dollars ($50,000).

SEC. 21. Section 25117 of the Corporations Code is amended to read:

25117. (a) An evidence of indebtedness, and the purchasers or holders thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution if (1) the evidence of indebtedness is rated or provisionally rated by Standard & Poor's Corporation as AAA, AA, A, BBB, or investment grade commercial paper, or by Moody's Investors Service, Inc. as Aaa, Aa, A, Baa, or investment grade commercial paper, including any such ratings with "+" or "—" designation or other variations that occur within these ratings, or has a rating or a provisional rating by another nationally recognized rating agency or system, which rating and agency or system have been certified by rule or order of the commissioner, or (2) the issuer thereof either (A) has any security listed or approved for listing upon notice of issuance on a national securities exchange or on the National Market System of the Nasdaq Stock Market (or any successor to that entity), if the exchange or Nasdaq Stock Market (or its successor) has been certified by the commissioner, pursuant to subdivision (o) of Section 25100, or (B) meets each of the following requirements:

(i) The issuer is a corporation which is subject to Section 13 of the Securities Exchange Act of 1934.

(ii) The issuer had total shareholders' equity of at least one million dollars ($1,000,000) at the end of its most recent fiscal year, and had consolidated net income, after all charges, including taxes and extraordinary losses, and excluding extraordinary gains, of at least five hundred thousand dollars ($500,000) for three of its last four fiscal years, including its most recent fiscal year. The determination of total shareholders' equity and net income shall be determined in conformity with generally accepted accounting principles applicable to that fiscal year or years, on a consolidated basis, or (3) the evidence of indebtedness is issued by any corporation all of the outstanding shares of which are owned by an issuer which meets the requirements of subparagraph (A) or (B) of paragraph (2).

(b) This section creates and authorizes a class of transactions and persons pursuant to Section 1 of Article XV of the California Constitution.

(c) Any evidence of indebtedness issued in compliance with this section shall be entitled to the benefits of the usury exemption contained in this section regardless of whether subsequent to its issuance the evidence of indebtedness is determined by a court of competent jurisdiction to be a ''security.''

SEC. 22. Section 11521.2 of the Insurance Code is amended to read:

11521.2. (a) The reserve required by the table of commensurate values for each annuity contract issued must be invested in investments specified in Sections 1170 through 1182 except that a certificate holder may invest in securities listed and traded on the New York Stock Exchange, the American Stock Exchange or regional stock exchanges or the National Market System of the Nasdaq Stock Market or successors to such exchanges or market having the same qualifications, to the extent of the lesser of net worth (assets over liabilities and reserves) of the certificate holder or 10 percent of such general investments. This section does not permit investment in options or commodity exchanges.

(b) The certificate holder may invest in such other investments as permitted by and subject to the written consent of the commissioner.

CHAPTER 486

An act to amend Section 31520.5 of the Government Code, relating to county employees' retirement.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 31520.5 of the Government Code is amended to read:

31520.5. Notwithstanding Section 31520.1, the board of retirement of a county of the 13th or 14th class, as defined by Sections 28020, 28034, and 28035, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as

the eighth member is elected. The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member only in the event the alternate retired member is present and acting for the eighth member during the entire meeting. In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member.

CHAPTER 487

An act to amend Section 230 of, and to add Section 230.1 to, the Labor Code, relating to employment.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) This act shall be known and may be cited as the Victims of Domestic Violence Employment Leave Act.

(b) The Legislature finds and declares the following:

(1) Domestic violence affects many persons without regard to age, race, educational level, socioeconomic status, religion, or occupation.

(2) Domestic violence is a crime that has a devastating effect on families, communities, and the workplace.

(3) Domestic violence impacts productivity, effectiveness, absenteeism, and employee turnover in the workplace.

(4) The National Crime Survey estimates that 175,000 days per year are missed from paid work due to domestic violence.

(5) The study also found that 56 percent of the victims were late for work at least five times a month, 28 percent of the victims had to leave work early at least five times a month, and 54 percent missed at least three days a month, all due to domestic violence.

(6) Victims of domestic violence may be vulnerable at work when trying to end an abusive relationship because the workplace may be the only place where the perpetrator knows to contact the victim.

(7) Employers must be sensitive to the needs of employees who are experiencing domestic violence and be responsive to those needs through personnel leave and benefits policies.

(8) Employees who commit acts of domestic violence at or away from the workplace should be disciplined in the same manner as employees who commit other acts of violence or harassment at or away from the workplace.

SEC. 2. Section 230 of the Labor Code is amended to read:

230. (a) No employer shall discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if the employee, prior to taking the time off, gives reasonable notice to the employer that he or she is required to serve.

(b) No employer shall discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(c) No employer shall discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence as defined in Section 6211 of the Family Code for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of a domestic violence victim or his or her child.

(d) (1) As a condition of taking time off for a purpose set forth in subdivision (c), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(3) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subdivision (c).

(e) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a), (b), or (c) 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 or hearing authorized by law is guilty of a misdemeanor.

(f) (1) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a), (b), or (c) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee filing a complaint with the division based upon a violation of subdivision (c) shall have one year from the date of occurrence of the violation to file his or her complaint.

(g) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a), (b), or (c). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

SEC. 3. Section 230.1 is added to the Labor Code, to read:

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence as defined in Section 6211 of the Family Code for taking time off from work to attend to any of the following:

(1) To seek medical attention for injuries caused by domestic violence.

(2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence.

(3) To obtain psychological counseling related to an experience of domestic violence.

(4) To participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee appeared in court.

(C) Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(3) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a) 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 or hearing authorized by law is guilty of a misdemeanor.

(d) (1) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee filing a complaint with the division based upon a violation of subdivision (a) shall have one year from the date of occurrence of the violation to file his or her complaint.

(e) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in

subdivision (a). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.).

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 488

An act to amend Sections 45249 and 88069 of the Education Code, relating to classified school employees.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 45249 of the Education Code is amended to read:

45249. (a) (1) After January 1, 2001, the classified employees of any school district that has already adopted this article on September 17, 1965, may, in accordance with this article, petition the governing board to request that the process to determine how personnel commission members are appointed be determined by a majority vote of the classified employees entitled to vote. That petition shall read substantially as follows:

"We, the undersigned classified employees of the _____ (name of school district), constituting 15 percent or more of the classified personnel entitled to vote, request the governing board to submit to an election the question of how personnel commission members shall be appointed.

NAME ____ POSITION CLASSIFICATION _____''

(2) ''Classified employee,'' as used in this section, shall be construed to include all personnel who are a part of the classified service as defined in Section 45103.

(b) (1) Within 90 days after receipt of a petition pursuant to subdivision (a), the governing board shall conduct an election by secret ballot of its classified personnel to determine the following question and the ballot shall read:

''Shall personnel commission members in the _____ (name of school district) be appointed as follows:

(A) One member appointed by the governing board of the district.

(B) One member appointed by the classified employees of the district.

(C) Those two members shall, in turn, appoint the third member.

____ Yes

____ No''

(2) Although the ballot conducted pursuant to paragraph (1) shall not require the employees' signatures or other personal identifying requirements, the governing board shall devise an identification system to ensure against fraud in the balloting process.

(3) The governing board shall appoint a three- to five-person tabulating committee. At least one member of the committee shall be a member of the governing board, to canvass the ballots and present the results to the governing board and one member shall be a classified employee nominated by the exclusive representative of the classified employees of the district. If a simple majority votes in favor of the process for appointing personnel commission members, that process shall become applicable in the district as follows:

(A) The first vacancy on the commission shall be filled by a person nominated by the classified employees of the district.

(B) The second vacancy on the commission shall be filled by a person appointed by the governing board of the district.

(C) The third vacancy of the commission shall be appointed by the first two members.

(4) If the ballot conducted pursuant to paragraph (2) fails to pass, personnel commission members shall be appointed in accordance with the procedure described in subdivision (c), and a petition by the classified employees for another election shall not occur sooner than two years after an election.

(c) (1) Subject to subdivisions (a) and (b), in a school district that has already adopted this article on September 17, 1965, members of the personnel commission shall be appointed by the Superintendent of

Public Instruction who shall consider the recommendation of the governing board and other interested parties. Subsequent appointments shall be made in accordance with this section.

(2) No later than 90 days before making the appointment, the Superintendent of Public Instruction shall notify the classified employees and the governing board, in writing, of the vacancy on the personnel commission and provide them with guidelines and procedures for making a recommendation and challenging a nomination. If a vacancy occurs during the term of a member of the personnel commission, the superintendent may appoint a new member after providing the foregoing notice no later than 30 days before making the appointment.

A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed but for no more than 90 calendar days.

(d) As used in this section, ''classified employees'' means an organization of classified employees that represents the greatest number of classified employees of the district as determined by the board. If no organization exists within the district, the governing board, by written rule, shall prescribe the method by which the recommendation is to be made by its classified employees.

SEC. 2. Section 88069 of the Education Code is amended to read:

88069. (a) (1) After January 1, 2001, the classified employees of any community college district that has already adopted this article on September 17, 1965, may, in accordance with this article, petition the governing board to request that the process to determine how personnel commission members are appointed be determined by a majority vote of the classified employees entitled to vote. That petition shall read substantially as follows:

''We, the undersigned classified employees of the ____ (name of community college district), constituting 15 percent or more of the classified personnel entitled to vote, request the governing board to submit to an election the question of how personnel commission members shall be appointed.

NAME ____ POSITION CLASSIFICATION ____''

(2) ''Classified employee,'' as used in this section, shall be construed to include all personnel who are a part of the classified service as defined in Section 88001.

(b) (1) Within 90 days after receipt of a petition pursuant to subdivision (a), the governing board shall conduct an election by secret ballot of its classified personnel to determine the following question and the ballot shall read:

''Shall personnel commission members in the ____ (name of community college district) be appointed as follows:

(A) One member appointed by the governing board of the district.

(B) One member appointed by the classified employees of the district.

(C) Those two members shall, in turn, appoint the third member.

____ Yes

____ No''

(2) Although the ballot conducted pursuant to paragraph (1) shall not require the employees' signatures or other personal identifying requirements, the governing board shall devise an identification system to ensure against fraud in the balloting process.

(3) The governing board shall appoint a three- to five-person tabulating committee. At least one member of the committee shall be a member of the governing board, to canvass the ballots and present the results to the governing board and one member shall be a classified employee nominated by the exclusive representative of the classified employees of the district. If a simple majority votes in favor of the process for appointing personnel commission members, that process shall become applicable in the district as follows:

(A) The first vacancy on the commission shall be filled by a person nominated by the classified employees of the district.

(B) The second vacancy on the commission shall be filled by a person appointed by the governing board of the district.

(C) The third vacancy of the commission shall be appointed by the first two members.

(4) If the ballot conducted pursuant to paragraph (2) fails to pass, personnel commission members shall be appointed in accordance with the procedure described in subdivision (c), and a petition by the classified employees for another election shall not occur sooner than two years after an election.

(c) (1) Subject to subdivisions (a) and (b), in a community college district that has already adopted this article on September 17, 1965, members of the personnel commission shall be appointed by the Chancellor of the California Community Colleges who shall consider the recommendation of the governing board and other interested parties.

(2) If the governing board and the personnel commission of a community college district elect to increase the personnel commission from three to five members, the Chancellor of the California Community Colleges shall make one of the additional appointments. Subsequent appointments shall be made in accordance with this section.

(3) No later than 90 days before making the appointment, the Chancellor of the California Community Colleges shall notify the classified employees and the governing board in writing of the vacancy on the personnel commission and provide them with guidelines and procedures for making a recommendation and challenging a nomination.

If a vacancy occurs during the term of a member of the personnel commission, the chancellor may appoint a new member after providing the foregoing notice no later than 30 days before making the appointment.

(4) A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed but for no more than 90 calendar days.

(d) As used in this section, ''classified employees'' means an organization of classified employees that represents the greatest number of classified employees of the district as determined by the board. If no organization exists within the district, the governing board, by written rule, shall prescribe the method by which the recommendation is to be made by its classified employees.

CHAPTER 489

An act to amend Sections 20320, 20322, 20324, 20325, 21006, 21007, 21008, 21013, 21020, 21021, 21023, 21023.5, 21024, 21027, 21029, 21030, and 21031 of, and to add Article 6 (commencing with Section 21050) to Chapter 11 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to public employees' retirement.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 20320 of the Government Code is amended to read:

20320. (a) A person directly appointed by the Governor, without the nomination of any officer or board, or directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under Article VII of the California Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless he or she files with the board an election in writing to become a member.

(b) Upon electing to become a member, the person may further elect at any time prior to retirement to receive service credit for his or her prior, excluded state service by making the contributions as specified in Sections 21050 and 21051.

SEC. 2. Section 20322 of the Government Code is amended to read:

20322. (a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. Upon electing to become a member, the officer may further elect at any time prior to retirement to receive service credit for his or her prior, excluded service by making the contributions as specified in Sections 21050 and 21051.

(b) As used in this part, ''elective officer'' includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of ''elective officer'' as defined in subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20125, the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an ''elective officer'' in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.

SEC. 3. Section 20324 of the Government Code is amended to read:

20324. (a) An employee of the Senate or the Assembly, or the respective committees thereof, whose salaries or wages are paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate, shall be deemed a ''legislative employee.'' A legislative employee is excluded from membership in this system unless he or she files with the board an election in writing to become a member. The election shall not be required of a legislative employee who was a member of this system on October 1, 1963.

(b) Upon electing to become a member, a legislative employee may further elect at any time prior to retirement to receive service credit for his or her prior, excluded legislative service and he or she shall have the option as to how much of that prior legislative service is to be credited. The legislative employee shall make contributions to this system as specified in Sections 21050 and 21051 for the previous service as a legislative employee for which he or she desires to receive service credit.

SEC. 4. Section 20325 of the Government Code is amended to read:

20325. (a) A county superintendent of schools, a school district, a community college district, or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 the option to elect at any time to become a member by filing an election in writing with the board to become a member. An election by a county superintendent of schools, a school district, or a community college district to be subject to this section shall subject all of its employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 to mandatory social security coverage but shall not, in and of itself, affect any other county superintendent of schools, school district, or community college district with respect to any social security coverage of employees of the other county superintendent of schools, school district, or community college district.

(b) If a part-time employee elects to become a member, he or she may further elect at any time prior to retirement to receive service credit for past service that was less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 by making the contributions as specified in Sections 21050 and 21051.

(c) This section shall not apply to those part-time employees of any contracting agency nor to any contracting agency until the contracting agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20474 or by express provision in its contract with the board.

(d) This section shall not apply to those part-time employees of any county superintendent of schools or school district or community college district nor to any county superintendent of schools or school district or community college district until the county superintendent of schools, the school district, or community college district, elects to be subject to this section by adopting a resolution to that effect and transmitting that resolution through the county superintendent of schools to the board. Notwithstanding any specified effective date in a resolution, the resolution shall not become effective until it is received by this system.

SEC. 5. Section 21006 of the Government Code is amended to read:

21006. (a) ''Leave of absence'' also means any time during which a state member was excused from performance of his or her duties on approved leave for the purpose of further education. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who applies to make that election between January 1, 2001 and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(b) Credit granted under this section may not exceed two years.

(c) This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

SEC. 6. Section 21007 of the Government Code is amended to read:

21007. ''Leave of absence'' also means any time during which a member is granted an approved leave for the purpose of service with a university; college; local, state, federal or foreign governmental agency; or nonprofit organization, if he or she returns to employment within the terms and conditions under which the leave was granted. A member may elect to receive service credit for that leave of absence at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050. In no event shall a member receive service credit in excess of two years for each approved leave of absence.

SEC. 7. Section 21008 of the Government Code is amended to read:

21008. Time during which a member is excused from performance of his or her duties, whether or not he or she is required to perform any portion of those duties during that time, and for which he or she receives compensation, but in an amount less than the full compensation earnable

by him or her while performing his or her duties when not so excused, such as sabbatical leave, shall be credited as service in the proportion that the compensation paid to the member bears to the full compensation that would be earnable by him or her while performing his or her duties on a full-time basis. However, the member shall receive full-time credit for the time if after returning to the employment from which he or she was excused and at any time prior to retirement he or she elects to, and does, make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

SEC. 8. Section 21013 of the Government Code is amended to read:

21013. ''Leave of absence'' also means any time during which a member is granted an approved maternity or paternity leave up to one year and returns to employment at the end of the approved leave for a period of time at least equal to that leave. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. This section applies to both past and future maternity or paternity leaves of absences by members of the system.

SEC. 9. Section 21020 of the Government Code is amended to read:

21020. ''Public service'' for purposes of this article means the following:

(a) The period of time an employee served the state, a school employer, or a contracting agency prior to becoming a member, when the service was rendered in a position in which the employee was excluded provided one of the following conditions is met:

(1) The position has since become subject to compulsory membership in this system.

(2) The employee was excluded because the employee was serving on a part-time basis.

(3) The employee was excluded because the employee failed to exercise the right to elect membership under this part.

(b) Employment in the State Emergency Relief Administration or the State Relief Administration, regardless of the source of the compensation paid for that employment.

(c) Employment as an academic employee of the University of California prior to October 1, 1963.

(d) Employment by the state in which the person was not eligible for membership in this system if the ineligibility was solely because his or her compensation was paid from other than state-controlled funds. However, time spent in work as a work relief recipient under programs

such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(e) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed those functions are or were transferred to or employed by the contracting agency without change in occupation or position.

(f) Civilian service as an employee or officer of an agency of the government of the United States that performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and that were transferred from the state to that agency, including military service in any branch of the Armed Forces of the United States performed by an individual on military leave of absence from that federal employment, if all the following conditions exist:

(1) Prior to performing that federal service he or she was employed by the state.

(2) He or she was laid off from state service or would have been laid off if he or she had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his or her layoff from state service he or she was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he or she was laid off.

(4) After his or her separation from federal service, he or she was employed by a state agency.

(5) In lieu of paragraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions that would have been made by the state had the member been in state service for the period of his or her public service with respect to members who were not employed by the state prior to entering that federal employment or whose state service prior to entering that federal employment was terminated for reasons other than the transfer of the function.

(g) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following the reorganization to render service to the district and who became a member in that employment.

SEC. 10. Section 21021 of the Government Code is amended to read:

21021. ''Public service'' for the employee of a student body organization, that is not a contracting agency, of a community college,

means the period of employment prior to becoming a member of the permanent classified service of the district pursuant to Section 76060 or 88020 of the Education Code.

The county superintendent of schools or superintendent of schools of an independently contracting community college district shall draw a requisition against the funds of the community college district for an amount equal to the total employer contribution that would have been requisitioned under Section 20617 had that service been rendered in the employ of the community college district and the employer rate and member compensation on the date of transfer had been in effect throughout the period of service credited.

The governing board may, at its discretion, establish a method of recovering a portion of, or the total liability for, the amount so requisitioned.

SEC. 11. Section 21023 of the Government Code is amended to read:

21023. (a) ''Public service'' with respect to a state member, other than a university member, also means the following:

(1) Time during which the member was a prisoner of war involving the United States, plus the time, if any, during which a member was hospitalized following his or her release from captivity for a disabling wound, injury, or disease directly attributable to that captivity but not to include hospitalization after the member's honorable and permanent medical separation from the armed forces.

(2) Time between the onset of the member's disabling wound, injury, or disease, directly attributable to service in combat with the armed forces during a war involving the United States, and the date of the member's honorable and permanent medical separation from the armed forces due to the disabling condition, if the member has a permanent disability rating in excess of 50 percent, that percentage having been determined under applicable federal law.

(b) For the purposes of this section, a war involving the United States exists in any of the following circumstances:

(1) Whenever Congress has declared war and peace has not been formally restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not a war has been formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of the armed forces, to maintain or restore international peace and security.

(c) A member electing to receive credit for public service under this section shall pay the contributions and interest required pursuant to Section 21033.

(d) This section shall apply to a member only if the member elects to receive credit while he or she is a state member, other than a university member, and he or she is credited with at least 10 years of service as a state member, other than a university member, on the date of the election.

(e) The maximum public service credit that may be received pursuant to this section is five years.

(f) This section shall not apply to any member receiving military retirement pay as described in Section 20896 or disability retirement pay as described in Section 20897.

(g) Except as provided in subdivision (f), this section shall apply to a state member, other than a university member, who leaves or has left employment with the state, subsequently meets or has subsequently met the conditions specified in subdivisions (a) and (b), and thereafter returns or thereafter has returned to service as a state member, other than a university member, is not entitled to receive the service credit pursuant to Section 20991 or 20997.

SEC. 12. Section 21023.5 of the Government Code is amended to read:

21023.5. (a) ''Public service'' for purposes of this article also means time served, not to exceed three years, as a volunteer in the Peace Corps or AmeriCorps: Volunteers In Service To America.

(b) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(c) Any member electing to receive credit for service under this section shall make the contributions as specified in Sections 21050 and 21052. This section applies to past and future service in the Peace Corps or AmeriCorps: Volunteers In Service To America.

SEC. 13. Section 21024 of the Government Code is amended to read:

21024. (a) ''Public service'' with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which he or she was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this

article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), (2) that is not continuous, or (3) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of continuous service entitles him or her to receive public service under this section.

(e) This section shall apply to a member only if he or she elects to receive credit while he or she is in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 14. Section 21027 of the Government Code is amended to read:

21027. (a) ''Public service'' with respect to a local member who retired pursuant to this part before the effective date of the election of his or her employer to be subject to Section 21024 also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the person's first employment by the employer under this section in which he or she was a member.

(b) Any retired person electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), (2) that is not continuous, or (3) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a retired person may select which of two or more periods of continuous service entitles him or her to receive public service under this section.

(e) This section shall apply to a retired person only if he or she retired immediately following service as a local member, pursuant to this part, and before the effective date of the election by his or her employer to be subject to Section 21024.

(f) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

(g) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency has elected to be subject to Section 21024 and elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contacts made after January 1, 1988, by express provision in the contract making the contracting agency subject to both Section 21024 and this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 15. Section 21029 of the Government Code is amended to read:

21029. (a) ''Public service'' with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired

former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

SEC. 16. Section 21030 of the Government Code is amended to read:

21030. (a) ''Public service'' for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

(b) Notwithstanding any other provision of law, a member electing to receive credit for public service under this section shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) Benefits arising from service credited to a member under this section shall become a liability of the employer for which the service was rendered.

SEC. 17. Section 21031 of the Government Code is amended to read:

21031. (a) ''Public service'' also means employment by a contracting agency before the effective date of its contract with the board, and is limited to that portion of the service that the agency does not provide in its contract for inclusion as prior service.

(b) A member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21051. The election may be made at any time prior to retirement.

(c) If the contracting agency subsequently amends its contract to include a greater percentage of final compensation as prior service, the electing member shall be refunded that portion of his or her contributions

made under this section as represents the additional prior service percentage contracted for by the agency plus interest at the crediting rate.

(d) If the agency pays all or a portion of the normal contributions required to be paid by a member, the contributions required under this section shall be based upon the normal contribution rate that would be applicable to that member if the agency were not paying any normal contributions under Section 20690 or 20691.

(e) This section shall not apply to any contracting agency until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after March 1, 1982, by express provision in the contract making the contracting agency subject to the provisions of this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 18. Article 6 (commencing with Section 21050) is added to Chapter 11 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 6. Service Credit Election and Cost Calculation

21050. An election by a member to receive credit for service under this part, in addition to his or her current and prior service credit, shall be effective only if accompanied by a lump-sum payment or an authorization for payments, other than a lump-sum payment, in accordance with regulations of the board.

21051. A member electing to receive credit for service subject to this section shall contribute, in accordance with Section 21050, an amount equal to the following:

(a) The contributions the member would have made to the system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to the member during the period for which credit is granted.

(b) The interest that would have accrued on those contributions if they had been deposited at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments.

(c) If the member is authorized under Section 21050 to contribute in other than a lump sum, interest on the unpaid balance of the amounts

payable under paragraphs (1) and (2), which interest shall begin to accrue as of the date of the election to receive credit.

The beginning date of the first subsequent period of service, for purposes of computation of contributions and interest, shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service.

21052. A member or retired former employee who elects to receive service credit subject to this section shall contribute, in accordance with Section 21050, an amount equal to the increase in employer liability, using the payrate and other factors affecting liability on the date of the request for costing of the service credit. The methodology for calculating the amount of the contribution shall be determined by the chief actuary and approved by the board. A member or retired former employee electing to receive service credit for service subject to Section 21076 or 21077 shall pay the contributions as described.

21053. All contributions of a member under this article shall be deemed to be and shall be administered as normal contributions.

21054. Notwithstanding any other provision of law, a member or retired member who elected to purchase military service credit under Section 20124 or 21027 on or after January 1, 1999, and prior to January 1, 2001, may, at any time prior to making the final payment for the service credit, elect to have the cost of that service credit recalculated pursuant to Section 21052. If that cost as recalculated under Section 21052 is less than the cost as originally calculated, the member or retired member shall pay the lesser amount, with credit for the payments previously made. However, no refund shall be payable to a member or retired member as a result of the recalculation of cost pursuant to this section.

SEC. 19. The board shall inform members at least once in calendar years 2001 and 2002, and in September 2003, that the right to request costing of service credit under Section 21006, 21007, 21008, 21024, 21027, or 21030 of the Government Code, under the formulas applicable prior to January 1, 2001, shall expire on December 31, 2003.

SEC. 20. Nothing in this act shall be construed to preclude the application of Section 20160 of the Government Code to correct errors or omissions related to the costing of service credit.

CHAPTER 490

An act to add Section 3212.8 to the Labor Code, relating to workers' compensation.

[Approved by Governor September 16, 2000. Filed with
Secretary of State September 19, 2000.]

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

SECTION 1. Section 3212.8 is added to the Labor Code, to read:

3212.8. (a) In the case of members of a sheriff's office, of police or fire departments of cities, counties, cities and counties, districts, or other public or municipal corporations or political subdivisions, or individuals described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whether those persons are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry and Fire Protection, or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service or active firefighting services, such as stenographers, telephone operators, and other office workers, the term ''injury'' as used in this division, includes hepatitis when any part of the hepatitis develops or manifests itself during a period while that person is in the service of that office, staff, division, department, or unit. The compensation that is awarded for hepatitis shall include, but not be limited to, full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers' compensation laws of this state.

(b) The hepatitis so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of the employment or service. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. That presumption shall be extended to a person covered by subdivision (a) following termination of service for a period of three calendar months for each full year of service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(c) The hepatitis so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

CHAPTER 491

An act to amend Sections 10200, 10201, 10203, 10204, 10205, 10206, 10207, and 15037.1 of, to add Section 10202.5 to, to repeal and add Sections 10202 and 10214.5 of, and to repeal Sections 1611.6, 1612,

10206.5, 10212, 10212.1, 10214.6, 10218, and 10218.5 of, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 1611.6 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 1612 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 10200 of the Unemployment Insurance Code is amended to read:

10200. The Legislature finds and declares the following:

(a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive workforce, and in developing the skills of frontline workers. For purposes of this section, ''frontline worker'' means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

(1) Foster job creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and other industries that are threatened by out-of-state competition. Provide for retraining contracts in companies that make a monetary or in-kind contribution to the funded training enhancements.

(2) Encourage industry-based investment in human resources development that promotes the competitiveness of California industry through productivity and product quality enhancements.

(3) Result in secure jobs for those who successfully complete training. All training shall be customized to the specific requirements of one or more employers or a discrete industry and shall include general skills that trainees can use in the future.

(4) Supplement, rather than displace, funds available through existing programs conducted by employers and government-funded training programs, such as the Workforce Investment Act of 1998, the Carl D. Perkins Vocational Education Act, CalWORKS, the Enterprise Zone Act, and the Stewart B. McKinney Homeless Assistance Act, or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs

developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

(b) The employment training panel, in funding projects that meet the requirements of subdivision (a), shall give funding priority to those projects that best meet the following goals:

(1) Result in the growth of the California economy by stimulating exports from the state, and the production of goods and services that would otherwise be imported from outside the state.

(2) Train new employees of firms locating or expanding in the state that provide high-skilled, high-wage jobs and are committed to an ongoing investment in the training of frontline workers.

(3) Develop workers with skills that prepare them for the challenges of a high performance workplace of the future.

(4) Train workers who have been displaced, have received notification of impending layoff, or are subject to displacement, because of a plant closure, workforce reduction, changes in technology, or significantly increasing levels of international and out-of-state competition.

(5) Are jointly developed by business management and worker representatives.

(6) Develop career ladders for workers.

(7) Promote the retention and expansion of the state's manufacturing workforce.

(c) The program established through this chapter is to be coordinated with all existing employment training programs and economic development programs, including, but not limited to, programs such as the Workforce Investment Act of 1998, the California Community Colleges, the regional occupational programs, vocational education programs, joint labor-management training programs, and related programs under the Employment Development Department and the Trade and Commerce Agency.

SEC. 5. Section 10201 of the Unemployment Insurance Code is amended to read:

10201. As used in this chapter:

(a) ''Department'' means the Employment Development Department.

(b) ''Employer'' or "eligible employer'' means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, or any nonprofit organization which has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3.

Any public entity or nonprofit organization that has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3, shall be deemed to be an employer only for purposes of placement of new hire trainees who received training as an incidental part of a training project designed to meet the needs of one or more private sector employers.

(c) ''Eligible participant'' means any person who, prior to beginning training or employment pursuant to this chapter, is any of the following:

(1) Unemployed and has established an unemployment insurance claim in this state, or has exhausted eligibility for unemployment insurance benefits from this state within the previous 24 months.

(2) Employed for a minimum of 90 days by his or her employer, or if employed for less than 90 days, met the conditions of paragraph (1) at the time of hire, had received a notice of layoff from the prior employer, or was employed by an employer for a period of not less than 90 days during the 180-day period prior to the employee's current employment.

(d) ''Executive director'' means the executive director appointed pursuant to Section 10202.

(e) ''Fund'' means the Employment Training Fund created by Section 1610.

(f) ''Job'' means employment on a basis customarily considered full time for the occupation and industry. The employment shall have definite career potential and a substantial likelihood of providing long-term job security. Furthermore, the employment shall provide earnings, upon completion of the employment requirement specified in subdivision (f) of Section 10209, equal to 50 percent, in the case of new hire training, or 60 percent, in the case of retraining, of the state or regional average hourly wage. However, in no case shall the employment result in earnings of less than 45 percent of the state average hourly wage for new hire training and 55 percent of the state average hourly wage for retraining. The panel may consider the dollar value of health benefits that are voluntarily paid for by an employer when computing earnings to meet the minimum wage requirements.

(g) ''New hire training'' means employment training, including job-related literacy training, for persons who, at the start of training, are unemployed.

(h) ''Panel'' means the Employment Training Panel created by Section 10202.

(i) ''Retraining'' means employment related skill and literacy training for persons who are employed and who meet the definition of paragraph (2) of subdivision (c) prior to commencement of training and

will continue to be employed by the same employer for at least 90 days following completion of training.

(j) ''State average hourly 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, divided by 40 hours.

(k) ''Trainee'' means an eligible participant.

(*l*) ''Training agency'' means any private training entity or local educational agency.

SEC. 6. Section 10202 of the Unemployment Insurance Code is repealed.

SEC. 7. Section 10202 is added to the Unemployment Insurance Code, to read:

10202. (a) The Employment Training Panel is established in the Employment Development Department.

(b) The executive director shall be appointed by the Governor, and shall be well qualified for the position with experience in government. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the panel, with the approval of the panel. The executive director shall administer this chapter, with the approval of the panel, in the manner he or she deems necessary to conduct the work of the panel properly. With the approval of the panel, the executive director may create divisions and subdivisions as necessary, and change and abolish these divisions and subdivisions from time to time.

(c) The panel may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for an executive director, and two assistant directors, who shall be exempt from state civil service.

(d) All personnel of the panel shall be appointed, directed, and controlled only by the panel or its authorized deputies or agents to whom it may delegate its powers.

(e) The Governor shall appoint two assistant directors, to serve at the pleasure of the Governor. The assistant directors shall have the duties as assigned by the executive director, and shall be responsible to the executive director for the performance of their duties.

(f) One assistant director shall have experience in serving the needs of small businesses, and shall, under the supervision of the executive director, manage the panel's efforts to ensure that employment training services are available to small businesses.

SEC. 8. Section 10202.5 is added to the Unemployment Insurance Code, to read:

10202.5. (a) The panel shall consist of eight persons, seven of whom shall be appointed as provided in subdivision (b), and shall have experience and a demonstrated interest in business management and employment relations. The Secretary of the Trade and Commerce Agency, or his or her designee, shall also serve on the panel as an ex officio, voting member.

(b) (1) Two members of the panel shall be appointed by the Speaker of the Assembly. One of those members shall be a private sector labor representative and the other member shall be a business representative.

(2) Two members of the panel shall be appointed by the President pro Tempore of the Senate. One of those members shall be a private sector labor representative and the other member shall be a business representative.

(3) Three members of the panel shall be appointed by the Governor. One of those members shall be a private sector labor representative, one member shall be a business representative, and one member shall be a public member.

(4) Labor appointments shall be made from nominations from state labor federations. Business appointments shall be made from nominations from state business organizations and business trade associations.

(5) The Governor shall designate a member to chair the panel, and the person so designated shall serve as the chair of the panel at the pleasure of the Governor.

(c) The appointive members of the panel shall serve for two-year terms, except that of the initial members of the panel, one initial appointee of each appointing power shall serve for a one-year term.

(d) Appointive members of the panel shall receive the necessary traveling and other expenses incurred by them in the performance of their official duties out of appropriations made for the support of the panel. In addition, each appointive member of the panel shall receive one hundred dollars ($100) for each day attending meetings of the panel, and may receive one hundred dollars ($100) for each day spent conducting other official business of the panel, but not exceeding a maximum of three hundred dollars ($300) per month.

SEC. 9. Section 10203 of the Unemployment Insurance Code is amended to read:

10203. The panel may meet as necessary at locations throughout the state. The panel shall maintain a minimum of three regional offices. The central office shall be located in Sacramento. Two regional offices shall be located in the southern part of the state, and one regional office shall be located in the northern part of the state.

The executive director will assign one person, with experience in meeting the needs of small businesses, to each of the regional offices for the purpose of developing training projects for small businesses and expediting the processing of training proposals from small businesses.

SEC. 10. Section 10204 of the Unemployment Insurance Code is amended to read:

10204. (a) The panel shall coordinate its programs with local and state partners of the federal Workforce Investment Act of 1998. This coordination shall include, but not be limited to, the adoption of a plan, including regular sharing of data, for the coordination of training authorized pursuant to this chapter with programs administered under Division 8 (commencing with Section 15000).

(b) For purposes of serving the needs of small businesses, the panel may delegate its authority to approve contracts for new hire training to any entity defined in paragraphs (3) and (4) of subdivision (c) of Section 10205, provided the following conditions are met:

(1) The panel determines that an entity to which it is delegating this authority meets the same standards as required of training agencies in Section 10210.

(2) The panel delegates its authority pursuant to this section by a contract with the entity which limits the total amount of Employment Training Fund funds which are available to the entity, specifies a time limit within which those funds shall either be allocated or returned to the panel, specifies the reasonable administrative costs to be allowed in administering the contract, and provides that no subcontract approved by the entity shall exceed fifty thousand dollars ($50,000) per project without prior approval by the panel.

(3) The subcontracts with employers and training agencies approved by the private industry council entity shall be for new hire training only and shall meet all the requirements of this chapter and the policies established by the panel.

SEC. 11. Section 10205 of the Unemployment Insurance Code is amended to read:

10205. The panel shall do all of the following:

(a) Establish a three-year plan that shall be updated annually, based on the demand of employers for trained workers, changes in the state's economy and labor markets, and continuous reviews of the effectiveness of panel training contracts. The initial three-year plan shall be submitted to the Governor and the Legislature not later than January 1, 1994. The initial update of the plan shall be submitted not later than July 1, 1994, and annual updates of the plan thereafter shall be submitted not later than July 1 of each year. In carrying out this section, the panel shall review information in the following areas:

(1) Labor market information, including the state-local labor market information program in the Employment Development Department, and economic forecasts.

(2) Evaluations of the effectiveness of training as measured by increased security of employment for workers and benefits to the California economy.

(3) The demand for training by industry, type of training, and size of employer.

(4) Changes in skills necessary to perform jobs, including changes in basic literacy skills.

(5) Changes in the demographics of the labor force and the population entering the labor market.

(6) Proposed expenditures by other agencies of federal Workforce Investment Act funds and other state and federal training and vocational education funds on eligible participants.

(b) The panel shall maintain a system to continuously monitor economic and other data required under this plan. If this data changes significantly during the life of the plan, the plan shall be amended by the panel. Each plan shall include all of the following:

(1) The panel's objectives with respect to the criteria and priorities specified in Section 10200 and the distribution of funds between new-hire training and retraining.

(2) The identification of specific industries, production and quality control techniques, and regions of the state where employment training funds would most benefit the state's economy and plans to encourage training in these areas, including specific standards and a system for expedited review of proposals that meet the standards.

(3) A system for expedited review of proposals that are substantially similar with respect to employer needs, training curriculum, duration of training, and costs of training, in order to encourage the development of proposals that meet the needs identified in paragraph (2).

(4) The panel's goals and operational objectives with respect to meeting the needs of small employers.

(5) The research objectives of the panel that contribute to the effectiveness of this chapter in benefiting the economy of the state as a whole.

(6) A priority list of skills that are in such short supply that employers are choosing to not locate or expand their businesses in the state or are importing labor in response to these skills shortages. This list should identify those industries in which upgrade training is likely to encourage hiring of the unemployed on a backfill basis.

(c) Solicit proposals and write contracts on the basis of proposals made directly to it. Contracts for the purpose of providing employment training may be written with any of the following:

(1) An employer or group of employers.

(2) A training agency.

(3) A local workforce investment board with the approval of the appropriate local elected officials in the local workforce investment area.

(4) A grant recipient or administrative entity selected pursuant to the federal Workforce Investment Act of 1998, with the approval of the local workforce investment board and the appropriate local elected officials.

These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to this chapter shall not be subject to competitive bidding procedures. Contracts for training may be written for a period not to exceed 24 months for the purpose of administration by the panel and the contracting employer or any group of employers acting jointly or any training agency for the purpose of providing employment training.

(d) Fund training projects that best meet the priorities identified annually. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants.

(e) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, the identification of employers who have been contacted by the contractor and who have provided reasonable assurance that they will employ successful trainees, the number of jobs available, the skill requirements for the identified jobs, the projected cost per person trained, hired, and retained in employment, the wages paid successful trainees upon placement, and the curriculum for the training. No proposal shall be considered or approved that proposes training for employment covered by a collective bargaining agreement unless the signatory labor organization agrees in writing.

(f) Develop a process by which local workforce investment boards may apply for marketing resources for the purpose of identifying local employers that have training needs that reflect the priorities of the panel. The panel may delegate its authority to approve contracts for training to local workforce investment boards, provided that no contract approved exceeds $50,000 per project without prior approval of the panel and all contracts meet the provisions of this chapter and are consistent with the annual priorities identified by the panel.

(g) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.

(h) Provide for evaluation of projects funded by this chapter. The evaluations shall assess the effectiveness of training previously funded by the panel to improve job security and stability for workers, and benefit participating employers and the state's economy, and shall compare the wages of trainees in the 12-month period prior to training as well as the

12-month period subsequent to completion of training, as reflected in the department's unemployment insurance tax records. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.

(i) Report annually to the Legislature, by November 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of all of the following:

(1) Projects completed during the year, including their individual and aggregate performance and cost.

(2) Projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole, and identifying any projects in which funds are expected to be disencumbered.

(3) Projects terminated prior to completion and the reasons for the termination.

(4) A description of the amount, type, and effectiveness of literacy training funded by the panel.

(5) Results of complete project evaluations.

In addition, based upon its experience in administering job training projects, the panel shall include in these reports policy recommendations concerning the impact of job training and the panel's program on economic development, labor-management relations, employment security, and other related issues.

(j) Conduct ongoing reviews of panel policies with the goal of developing an improved process for developing, funding, and implementing panel contracts as described in this chapter.

(k) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the Trade and Commerce Agency, in accordance with the priorities for employment training programs set forth in paragraph (2) of subdivision (c) of Section 10200.

(*l*) Coordinate and consult regularly with business groups and labor organizations, the California Workforce Investment Board, the State Department of Education, the office of the Chancellor of the California Community Colleges, the Employment Development Department, and the Trade and Commerce Agency.

(m) Adopt by regulation procedures for the conduct of panel business, including the scheduling and conduct of meetings, the review of proposals, the disclosure of contacts between panel members and parties at interest concerning particular proposals, contracts or cases

before the panel or its staff, the awarding of contracts, the administration of contracts, and the payment of amounts due to contractors. All decisions by the panel shall be made by resolution of the panel and any adverse decision shall include a statement of the reason for the decision.

(n) Adopt regulations and procedures providing reasonable confidentiality for the proprietary information of employers seeking training funds from the panel if the public disclosure of that information would result in an unfair competitive disadvantage to the employer supplying the information. In no case shall the panel withhold information from the public regarding its operations, procedures, and decisions which would otherwise be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(o) Review and comment on the budget and performance of any program, project, or activity funded by the panel utilizing funds collected pursuant to Section 976.6.

SEC. 12. Section 10206 of the Unemployment Insurance Code is amended to read:

10206. (a) The panel may allocate money in the fund for any of the following purposes:

(1) Reimbursement of reasonable training costs, and administrative costs incurred by contractors. In making a determination of costs to be reimbursed under this paragraph, the panel may allocate funds in accordance with any of the following methods:

(A) For purposes of providing simplified fixed-fee performance contracts, a flat rate per hour for categories of training that are substantially similar with respect to content, methodology, and duration, as determined by the panel, not to exceed the reasonable and normal costs for the training. The panel shall periodically adjust the standardized rates established pursuant to this paragraph to reflect changes in training costs.

(B) A complete review of the proposal and its costs, including a budget listing the planned costs of training, including personnel, fringe benefits, equipment, supplies, fees for consulting or administrative services, and other costs attributable to training; the services provided by subcontractors; the length and complexity of the training; the method of training; the wages and occupations following training; whether the trainees are new hires or retrainees; and the cost of similar training that the panel has funded previously. The cost of administration shall not exceed 15 percent of the training costs under this paragraph, except that for new hire training the panel may fund administrative costs of up to 25 percent of the training cost.

(C) The panel may modify the specific requirements of this paragraph as they apply to employers or contractors proposing projects that involve training for a significant number of small employers in the same project.

(D) A contractor is prohibited from utilizing any funds earned or paid as advances or progress payments for the purpose of making payments to any other individual or entity, either directly or indirectly, for costs incurred as a finder's fee or for other compensation related to the predevelopment or development phase of a training program, which is based on a percentage of the preliminary or final panel award to the contractor for the training project.

(2) (A) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.

(B) The panel's administrative costs, exclusive of the cost of administering Section 976.6, shall not exceed 15 percent of the total amount annually appropriated for expenditure by the panel.

(C) Expenditures for marketing, research, and evaluations provided under the contract to the panel under paragraph (1) that otherwise would have been provided directly by the panel shall not be included in this limitation.

(3) Service related to the purposes of this chapter provided by the Small Business Development Centers pursuant to an interagency agreement with the Trade and Commerce Agency.

(b) For all training contracts, the panel shall establish requirements for in-kind contributions by either the contractor or the employer that reflect a substantial commitment on the part of the contractor or the employer to the value of the training. In developing these requirements, the panel shall take into account the ability of the contractor or the employer, because of size or financial condition, to make any contribution, and the ability of the Employment Training Fund to meet the demand for training authorized by this chapter. In developing policies regarding in-kind contributions, the panel shall hold public hearings.

SEC. 13. Section 10206.5 of the Unemployment Insurance Code is repealed.

SEC. 14. Section 10207 of the Unemployment Insurance Code is amended to read:

10207. (a) The panel shall accept or reject a completed application within 60 days of the receipt by the executive director.

(b) The panel shall develop expedited procedures for reviewing proposals submitted by the state agencies which are participants in a special interagency agreement with the panel for purposes of this chapter.

SEC. 15. Section 10212 of the Unemployment Insurance Code is repealed.

SEC. 16. Section 10212.1 of the Unemployment Insurance Code is repealed.

SEC. 17. Section 10214.5 of the Unemployment Insurance Code is repealed.

SEC. 18. Section 10214.5 is added to the Unemployment Insurance Code, to read:

10214.5. (a) The panel may allocate up to 10 percent of the annually available training funds for the purpose of funding special employment training projects that improve the skills and employment security of frontline workers, as defined in subdivision (a) of Section 10200.

(b) The panel shall, on an annual basis, identify industries and occupations that shall be priorities for funding under this section. Training shall be targeted to frontline workers who earn at least the state average weekly wage.

(c) The panel may waive the minimum wage provisions pursuant to subdivision (f) of Section 10201 for projects in regions of the state where the unemployment rate is significantly higher than the state average, and may waive the employment retentions provisions specified in subdivision (f) of Section 10209 and instead require that the trainee has been retained in employment for a minimum of 90 days out of 120 consecutive days after the end of training with no more than three employers.

(d) The panel shall adopt minimum standards for consideration of proposals to be funded pursuant to this section.

(e) The panel may select contracts funded under this section based on competitive bidding.

(f) It is the intent of the Legislature in providing the authority for these projects that the panel allocate these funds in a manner consistent with the objectives of this chapter as provided in Section 10200.

SEC. 19. Section 10214.6 of the Unemployment Insurance Code is repealed.

SEC. 20. Section 10218 of the Unemployment Insurance Code is repealed.

SEC. 21. Section 10218.5 of the Unemployment Insurance Code is repealed.

SEC. 22. Section 15037.1 of the Unemployment Insurance Code is amended to read:

15037.1. (a) The state council shall be responsible for developing an education and job training report card program to assess the accomplishments of California's workforce preparation system.

(1) A subcommittee of the state council shall be established for this purpose.

(2) The subcommittee shall be comprised of three private sector members of the state council, the director of the department, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, or their designees, and representatives of programs that are to be measured under the report card program.

(3) The subcommittee shall be responsible for designing and implementing, or contracting with an operating entity for the implementation of, a system that can compile, maintain, and disseminate information on the performance of providers, programs, and the overall workforce preparation system.

(b) By January 1, 2001, the subcommittee or an operating entity under contract to the subcommittee shall operate a comprehensive performance-based accountability system that matches the social security numbers of former participants in state education and training programs with information in files of state and federal agencies that maintain employment and educational records and identifies the occupations of those former participants whose social security numbers are found in employment records.

(c) This system shall measure the performance of state and federally funded education and training programs for the purpose of system, program, and instructional improvement. Programs to be measured shall include programs in receipt of funds from the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Job Opportunities and Basic Skills program, the Food Stamp Employment and Training program, the Wagner Peyser Act, the Employment Training Panel, adult education programs as defined by paragraph (9) of subdivision (b) of Section 10521, basic vocational rehabilitation services as defined by Part B of Title 1 of the federal Vocational Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 701 et seq.), vocational education programs, and certificated community college programs.

(d) Job training and education providers receiving funding identified in subdivision (c) shall, to the extent permitted by federal law, request social security numbers from each participant 18 years of age and over and not currently enrolled in high school and participating in a workforce preparation program and shall report to the subcommittee or an operating entity under contract to the subcommittee, as the case may be, on participant social security numbers and economic and demographic characteristics, including, but not limited to, age, gender, race or ethnicity, and education achievement. The state council shall establish the acceptable format and timeframes for data submission.

(e) The system shall be designed to measure factors such as:

(1) Amount and source of funding.

(2) Program entrance and successful completion rates.

(3) Employment and wage information for one and three years after completion of training.

(4) The relationship of training to employment.

(5) Academic achievement for one and three years after completion of training.

(6) Achievement of industry skill standard certifications, where they exist.

(7) Return on public investment.

(f) Based upon the information compiled pursuant to this section, the subcommittee or an operating entity under contract to the subcommittee, as the case may be, shall, by December 31, 1997, and each December 31 thereafter, do all of the following:

(1) Prepare and disseminate report cards for all training and education providers in receipt of funds included in the tracking system.

(2) Prepare and disseminate local and statewide report cards that measure the outcomes of the individual programs that operate as part of the workforce development system.

(3) Prepare and disseminate a state report card that measures the performance of the entire system of workforce preparation and the effectiveness of the system in meeting employers' needs for educated and trained workers and the clients' needs for improving their economic well-being.

(g) The state council shall develop objective performance standards emphasizing the principles of continuous improvement for the programs covered under this section, and a system of sanctions and incentives to encourage performance that meet these standards.

(h) The state council shall explore the feasibility of including the following persons in this system:

(1) Attendees at private postsecondary institutions.

(2) Recipients of federal student loans.

(3) Recipients of Pell grants.

(4) Pupils in grades 11 and 12.

(5) Students enrolled in any community college, California State University, or University of California program.

(i) The sole purpose of this section is to assess the performance of state and federal employment and training providers and programs in preparing Californians for the workforce. Collection and use of social security numbers pursuant to this section shall be consistent with the requirements of Section 7 of the federal Privacy Act of 1974 (P.L. 93-579) and Section 405(c)(2)(C) of Title 42 of the United States Code. Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, or any other provision of law, the social security number of any person obtained pursuant to this section is not a public record, and shall not be disclosed except for the

purpose of this section. Information obtained pursuant to this section shall not be sold or distributed to any entity without prior consent from the individual, or his or her parent or guardian, with respect to whom the information is gathered. This subdivision does not prohibit the exchange of information with other governmental departments and agencies, both federal and state, that are concerned with the administration of workforce development programs. Neither the subcommittee nor an operating entity under contract to the subcommittee, as the case may be, may make public any information that could identify an individual or his or her employer.

(j) An education and training program that requires information gathered by the education and job training report card program shall use the report card program and shall not initiate automated matching of records in duplication of methods already in place as a result of the report card program.

(k) Funding for the development and maintenance of the education and job training report card program shall be made available on a shared basis by the programs the report card program is measuring, to the extent authorized by federal and state law. The subcommittee, or the operating entity under contract to the subcommittee, shall have the authority to assess each of the programs with an appropriate share of the costs of the report card program. Administrative funds currently used for program followup activities for the identified programs shall be redirected for this purpose, if authorized by federal law.

(*l*) The state council shall apply for any federal waivers that may be necessary to implement this section.

CHAPTER 492

An act to amend Sections 512, 515, and 516 of, and to add Section 515.5 to, the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal

period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

SEC. 2. Section 515 of the Labor Code is amended to read:

515. (a) The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. The commission shall conduct a review of the duties that meet the test of the exemption. The commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to duties that meet the test of the exemption without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(b) (1) The commission may establish additional exemptions to hours of work requirements under this division where it finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry. This paragraph shall become inoperative on January 1, 2005.

(2) Except as otherwise provided in this section and in subdivision (g) of Section 511, nothing in this section requires the commission to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997. Except as otherwise provided in this division, the commission may review, retain, or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997.

(c) For the purposes of this section, ''full-time employment'' means employment in which an employee is employed for 40 hours per week.

(d) For the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the

employee's regular hourly rate shall be $^1/_{40}$th of the employee's weekly salary.

(e) For the purposes of this section, ''primarily'' means more than one-half of the employee's worktime.

(f) (1) In addition to the requirements of subdivision (a), registered nurses employed to engage in the practice of nursing shall not be exempted from coverage under any part of the orders of the Industrial Welfare Commission, unless they individually meet the criteria for exemptions established for executive or administrative employees.

(2) This subdivision does not apply to any of the following:

(A) A certified nurse midwife who is primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(B) A certified nurse anesthetist who is primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(C) A certified nurse practitioner who is primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(D) Nothing in this paragraph shall exempt the occupations set forth in subparagraphs (A), (B), and (C) from meeting the requirements of subdivision (a).

SEC. 3. Section 515.5 is added to the Labor Code, to read:

515.5. (a) Except as provided in subdivision (b), an employee in the computer software field shall be exempt from the requirement that an overtime rate of compensation be paid pursuant to Section 510 if all of the following apply:

(1) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment, and the employee is primarily engaged in duties that consist of one or more of the following:

(A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

(B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to, user or system design specifications.

(C) The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(2) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(3) The employee's hourly rate of pay is not less than forty-one dollars ($41.00). The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) does not apply to an employee if any of the following apply:

(1) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(2) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(3) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(4) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(5) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-Roms.

(6) The employee is engaged in any of the activities set forth in subdivision (a) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

SEC. 4. Section 516 of the Labor Code is amended to read:

516. Except as provided in Section 512, the Industrial Welfare Commission may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

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, at the earliest possible time, to protect businesses that rely on the computer industry as well as certain vital health care professions, it is necessary for this act to take effect immediately.

CHAPTER 493

An act to add Section 6332 to the Labor Code, relating to employment.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 6332 is added to the Labor Code, to read:

6332. (a) For purposes of this section, the following terms have the following meanings:

(1) ''Community health care worker'' means an individual who provides health care or health care-related services to clients in home settings.

(2) ''Employer'' means a person or entity that employs a community health care worker. ''Employer'' does not include an individual who is a recipient of home-based services and who is responsible for hiring his or her own community health care worker.

(3) ''Violence'' means a physical assault or a threat of a physical assault.

(b) Every employer shall keep a record of any violence committed against a community health care worker and shall file a copy of that record with the Division of Labor Statistics and Research in the form and detail and within the time limits prescribed by the Division of Labor Statistics and Research.

CHAPTER 494

An act to amend Sections 7420 and 7441 of the Elections Code, relating to the Republican Party.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 7420 of the Elections Code is amended to read:

7420. (a) At every statewide direct primary election, a member shall be elected to a county central committee to replace a member whose term is expiring.

(b) When district boundaries are redrawn and districts are renumbered in accordance with the decennial census, a member of a county central committee may run for election in a newly numbered district at the next election even though his or her current term of office has not expired. If a person is elected in the newly numbered district and takes the oath of office, the person is deemed to have resigned from his or her previous district office at that time.

SEC. 2. Section 7441 of the Elections Code is amended to read:

7441. (a) At the first meeting, a committee shall organize by selecting a chairperson, a secretary, and any other officers and committees as it deems necessary for carrying on the affairs of this party.

(b) The members of the central committee shall assume office and hold their first meeting during the month of December or January following a general election. A member shall hold office for a two-year term commencing with that first meeting held in December or January following a general election.

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 495

An act to add Section 31678.2 to the Government Code, relating to county employees' retirement.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 31678.2 is added to the Government Code, to read:

31678.2. (a) Notwithstanding Section 31678 or any other provision of this chapter, a board of supervisors or a governing body of a district may, by resolution adopted by majority vote, make any section of this chapter prescribing a formula for calculation of retirement benefits applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted.

(b) A resolution adopted pursuant to this section may, if approved in a memorandum of understanding executed by the board of supervisors and the employee representatives, require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (a), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member.

(c) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (a).

CHAPTER 496

An act to amend Sections 9111 and 9212 of the Elections Code, relating to local initiative measures.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 9111 of the Elections Code is amended to read:

9111. (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9116, or Section 9118, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with

Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the board of supervisors request to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

SEC. 2. Section 9212 of the Elections Code is amended to read:

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

CHAPTER 497

An act to amend Section 31787.5 of, to add Section 31452.7 to, and to repeal and add Section 31787 of, the Government Code, relating to county employees' retirement.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 31452.7 is added to the Government Code, to read:

31452.7. (a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member's designated beneficiary.

(b) Upon the death of any person receiving a survivor's allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

SEC. 2. Section 31787 of the Government Code is repealed.

SEC. 3. Section 31787 is added to the Government Code, to read:

31787. (a) If any member who would have been entitled to a service-connected disability retirement dies prior to retirement as the result of injury or disease arising out of and in the course of the member's employment, and the member leaves a surviving spouse, that spouse shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided for in Sections 31780 and 31781, an optional death allowance as provided in this section.

(b) The optional death allowance shall consist of a monthly payment equal to the monthly retirement allowance to which the member would have been entitled if the member had retired or been retired by reason of a service-connected disability as of the date of death.

(c) If the surviving spouse elects to receive the optional death allowance, the payments becoming due to the spouse shall be retroactive to the date of the member's death and shall continue during and throughout the life of the spouse.

(d) If the surviving spouse elects to receive the optional death allowance, and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the optional death allowance shall thereafter be paid to those surviving children collectively until they die, marry, or reach the age of 18 years; provided, however, that the right of any of those children respectively to share in the allowance shall cease upon their death or marriage or upon their reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to the remaining qualified children.

(e) If the deceased member leaves no surviving spouse but leaves unmarried children under the age of 18 years, the legally appointed guardian of those children shall make the election herein provided for on behalf of the surviving children as in the guardian's judgment may appear to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and children of a deceased member, or any of them, shall not be dependent upon whether they or any of them shall have been nominated by the deceased member as the beneficiary of any benefits payable upon or by reason of the member's death, but shall be superior to and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provision of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 years if those children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 4. Section 31787.5 of the Government Code is amended to read:

31787.5. (a) A surviving spouse of a member who is killed in the performance of duty or who dies as the result of an accident or an injury caused by external violence or physical force, incurred in the performance of the member's duty, now or hereafter entitled to receive a death allowance under Section 31787, shall be paid an additional amount for each of the member's children during the lifetime of the

child, or until the child marries or reaches the age of 18 years, as follows, subject to the limitation in subdivision (b):

(1) For one child, twenty-five percent (25%) of the allowance provided in Section 31787.

(2) For two children, forty percent (40%) of the allowance provided in Section 31787.

(3) For three or more children, fifty percent (50%) of the allowance provided in Section 31787.

(b) If a benefit payable under this section, when added to a benefit payable under Section 31787, exceeds the maximum benefit payable by a tax-qualified pension plan under the Internal Revenue Code (26 U.S.C.A. Sec. 401 et. seq.), the benefit payable under this section shall be reduced to the amount required to meet that benefit limit.

(c) If the surviving spouse does not have legal custody of the member's children, the allowance provided by this section shall be payable to the person to whom custody of the children has been awarded by a court of competent jurisdiction for each child during the lifetime of the child, or until the child marries or reaches the age of 18 years.

(d) The allowance provided by this section shall be payable to the surviving spouses of members whose duties consist of active law enforcement or active fire suppression or any other class or group of members as the retirement board shall fix.

(e) Any child whose eligibility for an allowance pursuant to this section commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his or her adoption.

(f) This section shall become operative in any county, which has adopted the provisions of this chapter but which has not previously adopted the provisions of this section on October 1, 1965. Each surviving spouse of a member or other person having legal custody of a member's child or children who is paid an additional amount for each of the member's children because of the amendments to this section enacted at the 1965 or 1967 Regular Session shall receive those payments as they accrue from and after October 1 of the year during which this section was amended to provide for the payment to him or her of that allowance, but the surviving spouse or other person shall not be given a claim for any increase in those benefits for a time prior to that date.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

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CHAPTER 498

An act to amend Section 66632.4 of the Government Code, relating to public resources.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 66632.4 of the Government Code is amended to read:

66632.4. Within any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses, as fixed and established pursuant to Section 66611, the commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline. When considering whether a project provides maximum feasible public access in areas of sensitive habitat, including tidal marshlands and mudflats, the commission shall, after consultation with the Department of Fish and Game, and using the best available scientific evidence, determine whether the access is compatible with wildlife protection in the bay.

CHAPTER 499

An act to amend Section 5011.5 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 5011.5 of the Public Resources Code is amended to read:

5011.5. (a) A veteran of any war in which the United States has been, or may be engaged, who is a resident of this state, upon presentation to the department of proof of disability or proof of being held captive as a prisoner of war and of an honorable discharge from service, upon application therefor and payment of three dollars and fifty cents ($3.50), shall be issued a pass entitling the bearer to the use of all facilities, including boat launching facilities, in units of the state park system.

(b) As used in this section:

(1) ''Veteran'' means any former member of the Armed Forces of the United States who has a 50 percent or greater service-connected disability, or who was held as a prisoner of war by forces hostile to the United States, as certified by the United States Department of Veterans Affairs, and who was honorably discharged from service.

(2) ''War'' means that period of time commencing when Congress declares war or when the Armed Forces of the United States are engaged in active military operations against any foreign power, whether or not war has been formally declared, and ending upon the termination of hostilities as proclaimed by the President of the United States.

SEC. 2. On or before January 1, 2004, the Department of Parks and Recreation shall report, in writing, to the chairpersons of the legislative fiscal committees and the chairpersons of the appropriate legislative policy committees its findings regarding the frequency of the use of the passes issued pursuant to Section 5011.5 of the Public Resources Code.

CHAPTER 500

An act to add Section 40459 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

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

(a) California law provides for the measurement of the level of carcinogens in the air and water and requires that notice be given to the public regarding the level of various toxic pollutants in the air.

(b) Petroleum coke is material produced in the oil-refining process that is exported widely to Asia as an alternative energy source.

(c) The purpose of this act is to reduce the emission of airborne particulate matter from the storage, handling, and transportation of petroleum coke.

SEC. 2. Section 40459 is added to the Health and Safety Code, to read:

40459. (a) (1) Except as provided in paragraph (4), on or before January 1, 2001, the operator of any facility within either the Port of Los Angeles or the Port of Long Beach that stores, handles, or transports petroleum coke and is subject to the enclosed storage pile deadlines of Rule 1158 shall comply with the enclosure requirement of Rule 1158.

(2) Except as provided in paragraph (4), on or before January 1, 2002, the facility operator at the Port of Los Angeles shall enclose the ready pile referenced in subparagraph (k)(10) of Rule 1158.

(3) On or before January 1, 2004, the facility operator at the Port of Long Beach shall discontinue the use of, or replace the shiploader referenced in subparagraph (k)(6) of Rule 1158.

(4) Notwithstanding paragraphs (1) and (2), if the construction of additional enclosed storage within the Port of Los Angeles is commenced on or before April 1, 2001, the facility operator is not required to comply with subparagraph (k)(10) of Rule 1158 until April 1, 2002.

For purposes of this paragraph, ''construction of additional enclosed storage'' means any storage enclosure for which the south coast district issues a permit to construct on or after January 1, 2001, but before April 1, 2001, and construction begins on or before April 1, 2001.

(b) The south coast district, in conjunction with the state board, shall annually submit a study to the Legislature that examines the frequency and severity of violations of south coast district rules related to the storage, transportation, and handling of petroleum coke.

(c) Until the facility operator at the Port of Los Angeles encloses the outdoor ready pile, as specified in paragraph (2) of subdivision (a), the south coast district shall monitor the size of that ready pile to ensure compliance with the 50,000 metric ton limit requirement in that facility's March 31, 1999, Rule 1158 interim storage plan.

(d) On and after January 1, 2003, the south coast district shall maintain a program to monitor particulates within the Port of Los Angeles and the Port of Long Beach and shall assess prevalent coke particulates and improvements in air quality.

(e) For purposes of this section, ''Rule 1158'' means the rule adopted by the south coast district on December 2, 1983, and amended June 11, 1999, pursuant to this chapter. Any terms used in this section and in Rule 1158 shall have the same meaning as provided in Rule 1158.

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

In addition, 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 501

An act to add Section 40723 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 40723 is added to the Health and Safety Code, to read:

40723. (a) It is the intent of the Legislature that, when an air district establishes best available control technology or lowest achievable emission rate requirements based in part on vendor representations, the requirements be achievable for the applicable source category.

(b) Upon the request of any owner or operator of equipment that is subject to best available control technology or lowest achievable emission rate requirements, the district shall review whether the applicable requirements have been achieved and whether the requirements should be required for the source category or source if the owner or operator demonstrates that all of the following conditions are true:

(1) The owner or operator purchased equipment that was subject to or intended by the manufacturer or vendor to satisfy federal, state, or local air district rules or permitting requirements that impose best available control technology or lowest achievable emission rate requirements.

(2) An express warranty was provided to the owner or operator by the manufacturer or vendor that the equipment would achieve the best available control technology or lowest achievable emission rate requirements, or any specified emission rate or standard intended to satisfy those requirements.

(3) The owner or operator made a reasonable effort, for a reasonable period of time, to operate the equipment in accordance with the operating conditions specified by the equipment manufacturer or vendor.

(4) The equipment failed to meet the best available control technology or lowest achievable emission rate requirements covered by the warranty provided by the equipment manufacturer or vendor.

(5) The applicable best available control technology or lowest achievable emission rate requirements were established primarily on the basis of the representations and data provided by the equipment manufacturer or vendor.

(c) (1) If, after conducting a review pursuant to subdivision (b), the district determines that the applicable best available control technology or lowest achievable emission rate requirements are not achievable by a source, the district shall revise those requirements to a level achievable by that source.

(2) If, after conducting a review pursuant to subdivision (b), the district determines that the applicable best available control technology or lowest achievable emission rate requirements are not achievable by a source category, the district shall revise those requirements to a level achievable by that source category.

(d) This section shall be implemented in a manner consistent with applicable federal and state statutes, regulations, and requirements for the establishment of best available control technology and lowest achievable emission rate requirements.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 502

An act to amend Section 668 of, and to add Section 654.3 to, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 654.3 is added to the Harbors and Navigation Code, to read:

654.3. (a) Each diesel powered vessel operating exclusively in California, engaged in the commercial transport of passengers with the capacity to transport 75 passengers or more, shall use only California diesel fuel formulated as specified in Sections 2281 and 2282 of Title 13 of the California Code of Regulations.

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

SEC. 2. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or 754, or any regulations adopted pursuant thereto, or any regulation adopted pursuant to Section 655.3 relating to vessel equipment requirements, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars ($250).

(b) (1) Any person who violates Section 655.2, or any regulation adopted pursuant thereto, or, except as provided in subdivision (a), any regulation adopted pursuant to Section 655.3, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) (1) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000), or by imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(2) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interest of justice for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(d) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

(e) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, an alcohol or drug education, training, or

treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(f) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to do either of the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition

of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(g) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(h) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court, as a condition of probation, may order that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(i) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section

655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(j) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(k) A person who flees the scene of the crime after committing a violation of Section 191.5, paragraph (1) or (3) of subdivision (c) of Section 192, or subdivision (a) or (c) of Section 192.5 of the Penal Code shall be subject to subdivision (c) of Section 20001 of the Vehicle Code.

(*l*) Any person who violates Section 654.3 is guilty of an infraction punishable by a fine of not more than five hundred dollars ($500) for each separate violation.

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

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 503

An act relating to public health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) On or before January 1, 2002, the State Department of Health Services shall conduct a baseline health study of the effects of the possible exposure to soil contamination from Polycyclic Aromatic Hydrocarbons (PAHs) on the residents of the William Mead Homes public housing project, located in Lincoln Heights in the County of Los Angeles.

(b) The study required by this section shall focus on the health conditions of the residents of the William Mead Homes public housing project.

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

Due to the potential health threats to the residents of the William Mead Homes public housing project from possible exposure to soil contamination from Polycyclic Aromatic Hydrocarbons and the health impact of current cleanup efforts upon residents of the William Mead Homes public housing project, it is necessary for this act to take effect immediately.

CHAPTER 504

An act to add and repeal Division 37 (commencing with Section 72300) to the Public Resources Code, relating to water.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Division 37 (commencing with Section 72300) is added to the Public Resources Code, to read:

DIVISION 37. LARGE PASSENGER VESSELS PROGRAM

CHAPTER 1. DEFINITIONS

72300. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division:

(a) ''Air contaminant'' has the meaning set forth in Section 39013 of the Health and Safety Code.

(b) ''Calendar quarter'' or ''quarter'' means the three-month periods ending March 31, June 30, September 30, and December 31.

(c) ''Emission'' means a release of an air contaminant into the atmosphere.

(d) ''Graywater'' means drainage from dishwasher, shower, laundry, bath, and wash basin drains, but does not include drainage from toilets, urinals, hospitals, and cargo spaces.

(e) ''Hazardous waste'' has the meaning set forth in Section 25117 of the Health and Safety Code.

(f) ''Large passenger vessel'' or ''vessel'' means a vessel of 300 gross registered tons or greater that is engaged in the carrying of passengers for hire, excluding all of the following vessels:

(1) Vessels without berths or overnight accommodations for passengers.

(2) Noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service, and vessels operated by the state, the United States, or a foreign government.

(g) ''Marine waters of the state'' means ''coastal waters'' as defined by Section 13181 of the Water Code.

(h) ''Medical waste'' means medical waste subject to regulation pursuant to Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

(i) ''Offloading'' means the removal of waste onto or into a controlled storage, processing, or disposal facility or treatment works.

(j) ''Oil'' has the meaning set forth in Section 8750.

(k) ''Operator'' has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(*l*) ''Owner'' has the meaning set forth in Section 651 of the Harbors and Navigation Code.

(m) ''Release'' means discharging or disposing of wastes into the environment.

(n) ''Sewage'' has the meaning set forth in Section 775.5 of the Harbors and Navigation Code, and also includes material that has been collected or treated through a marine sanitation device as that term is used in paragraph (5) of subsection (a) of Section 1322 of Title 33 of the United States Code.

(o) ''Solid waste'' has the meaning set forth in Section 40191.

(p) ''Waste'' means an air contaminant, graywater, sewage, solid waste other than hazardous waste, including incinerator residue and medical waste, hazardous waste, or oily waste.

CHAPTER 2. LARGE PASSENGER VESSELS

72301. (a) The Cruise Ship Environmental Task Force is hereby created to evaluate environmental practices and waste streams of large passenger vessels. The task force shall be convened by the California Environmental Protection Agency, and shall consist of representatives of the State Water Resources Control Board, the Department of Fish and Game, the Department of Toxic Substances Control, the Integrated Waste Management Board, the State Lands Commission, and the State Air Resources Board. The California Environmental Protection Agency shall request the United States Coast Guard to participate as a member of the task force. The task force may also consult with the Office of Environmental Health Hazard Assessment and shall establish a process for receiving comments from the public and the cruise ship industry on matters to be considered by the task force.

(b) The purpose of the task force is to gather information necessary for the preparation of the report required by Section 72304.

(1) The task force shall gather reports and manifests of waste released and offloaded that are submitted by large passenger vessels to state entities under state and federal law.

(2) As requested by the task force, owners or operators of large passenger vessels agree to submit copied excerpts of records and manifests, including oil record books, garbage record books, engine room log books, or other records of waste released or offloaded after January 1, 2001, from the vessels in California.

(3) To the extent permitted by state and federal law, the task force may request an owner or operator to submit supplemental or additional information.

(c) This section does not relieve an owner or operator from complying with any other reporting requirement imposed pursuant to any other state or federal law.

72302. The owner or operator of a vessel, not later than 10 days from the close of a calendar quarter in which the owner or operator has operated, or caused to be operated, a vessel in the marine waters of the

state, shall submit to the State Water Resources Control Board a report of any release of graywater or sewage that occurred during the previous calendar quarter while the vessel was located in the marine waters of the state, to the extent that these releases can be reasonably quantified.

72303. The State Air Resources Board shall measure and record the opacity of visible emissions, excluding condensed water vapor, of a representative sample of large passenger vessels while at berth or at anchor in a port of this state.

72304. The California Environmental Protection Agency shall utilize the information gathered by the task force and prepare and submit a report to the Legislature, on or before June 1, 2003, that includes all of the following information:

(a) A summary review of environmental rules, regulations, reports, reporting procedures, and mechanisms for the management of waste applicable to large passenger vessels based on international, federal, and state law.

(b) A review and analysis of information contained in any report submitted to any state or federal entity by the owner or operator of a large passenger vessel related to the matters subject to this division, as well as reports and other records submitted to the task force under this division.

(c) Identification of areas of concern that may not be covered by existing reporting requirements that should be included in federal or state reporting requirements.

(d) Identification of mechanisms to better coordinate the activities of the various state and federal agencies that regulate the operation of large passenger vessels.

(e) Observations regarding the potential impacts of reported quantities and characteristics of releases of waste on water quality, the marine environment, and human health, taking into consideration applicable water quality standards, and an evaluation of the air contaminant emissions on air quality and human health, taking into consideration applicable air quality standards.

(f) Recommendations to the Coast Guard and state agencies, as appropriate, to address any areas where additional regulations or reporting may be appropriate.

72305. This division shall remain in effect only until July 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2003, deletes or extends that date.

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CHAPTER 505

An act to amend Section 29736 of, and to repeal Section 29759 of, the Public Resources Code, relating to delta protection.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 29736 of the Public Resources Code is amended to read:

29736. The term of office of the members of the commission shall be for four years, and a member may serve for one or more consecutive terms.

SEC. 2. Section 29759 of the Public Resources Code is repealed.

CHAPTER 506

An act to amend Sections 14482 and 14483 of the Business and Professions Code, to repeal Section 1279 of the Code of Civil Procedure, to amend Section 18025 of the Education Code, to amend Sections 3102, 3105, 6523.5, 6523.6, 6523.7, 15365.30, 23119, 23130, 23212, 23285, 29321, 36501, 51283.4, 54988, 61737.05, 65400, 66412, 66451.17, 66463.5, and 66499.19 of, to amend and renumber Section 6523.75 of, to add Section 6500.1 to, to repeal Section 16153 of, to repeal Division 2 (commencing with Section 60400) of Title 6 of, and to repeal and add Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5 of, the Government Code, to repeal Division 36 (commencing with Section 56000) of the Health and Safety Code, to amend Sections 3211.92 and 3211.93a of the Labor Code, to amend Section 26593 of the Public Resources Code, to amend Section 21670 of the Public Utilities Code, to amend Sections 10 and 10.2 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), and to repeal Section 901 of the Pajaro River Watershed Flood Prevention Authority Act (Chapter 963 of the Statutes of 1999), relating to local agencies.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) This act shall be known and may be cited as the Local Government Omnibus Act of 2000.

(b) The Legislature finds and declares that Californians desire their government to be run efficiently and economically, and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own operating costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor, noncontroversial statutory changes relating to local agencies into a single measure.

SEC. 2. Section 14482 of the Business and Professions Code is amended to read:

14482. In order to register a name, mark or device under this article, the supplier shall do all of the following:

(a) File in the office of the Secretary of State a description of the names, marks, or devices so used.

(b) Cause the description of the name, mark or device to be printed once a week for three successive weeks in a newspaper published in the county in which the principal place of business of the supplier is located.

SEC. 3. Section 14483 of the Business and Professions Code is amended to read:

14483. The registrant shall pay to the Secretary of State for filing each laundry supply designation described and for issuing a certificate of filing a fee as set forth in subdivision (e) of Section 12193 of the Government Code.

SEC. 4. Section 1279 of the Code of Civil Procedure is repealed.

SEC. 5. Section 18025 of the Education Code is amended to read:

18025. (a) For the 1982–83 fiscal year and each fiscal year thereafter, the State Librarian shall determine the amount to which each public library is entitled for support of the library during the fiscal year. The amount shall be equal to 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(b) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under Chapter 282 of the Statutes of 1979, total less than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall be reduced proportionately. A proportional reduction in the state allocation as described in this subdivision shall not be made, however, commencing with the 1997–98 fiscal year and each fiscal year thereafter, if the amount appropriated to the Public Library Fund for that fiscal year is equal to or greater than the amount necessary to fund each public library in the amount it received for the prior fiscal year, thus providing the state's share of the cost of the foundation program to each library based only on its population served, as certified by the State Librarian. After the first fiscal year in which the proportional reduction is not made, no further

reductions based on this subdivision shall be made in any future fiscal year. It is the intent of this subdivision to make this change without harm to any library currently receiving an unreduced share of the state's cost of the foundation program.

(c) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979, total more than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall remain at 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(d) In order for a public library to receive state funds under this chapter in the 1983–84 fiscal year and any fiscal year thereafter, the total amount of local revenues appropriated for the public library for that fiscal year, including tax revenues made available under Chapter 282 of the Statutes of 1979 and other revenues deemed to be local revenues according to Section 18023, shall be equal to at least the total amount of local revenues, as defined, appropriated for the public library in the previous fiscal year. State funds provided under this chapter shall supplement, but not supplant, local revenues appropriated for the public library.

(e) (1) Notwithstanding subdivision (d), or any other provision of law, in the 1993–94 fiscal year, any city, county, district, or city and county, that reduces local revenues appropriated for the public library for the 1993–94 fiscal year shall continue to receive state funds appropriated under this chapter for the 1993–94 fiscal year only, provided that the amount of the reduction to the appropriation to that public library for the 1993–94 fiscal year is no more than 20 percent of the 1992–93 fiscal year appropriation made to that public library as certified by the fiscal officer of the public library and transmitted to the State Librarian pursuant to Section 18023.

(2) Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) or of paragraph (1) by demonstrating that the percentage of the reduction in local revenues appropriated for the public library is no greater than the percentage of the reduction of local revenues received by the city, county, district, or city and county operating the public library as a result of changes made to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code by statutes enacted during or after the 1991–92 Regular Session having the effect of shifting property tax revenues from cities, counties, special districts, and redevelopment agencies to school districts and community colleges. Requests for the waiver and the substantiating documentation shall be submitted to the

State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(3) Commencing with the 1997-98 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) by demonstrating that the percentage of reduction in local revenues appropriated for the public library is no greater than the percentage of reduction of local revenues received by the city, county, district, or city and county operating the public library as a result of the addition of Article XIII D, otherwise known as the Right to Vote on Taxes Act, to the California Constitution as approved by the voters at the November 5, 1996, general election. Requests for the waiver and the substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(4) Commencing with the 2000–01 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) or of paragraph (1) by demonstrating that the reduction in local revenues appropriated for the public library is no greater than the reduction in local revenues received by the city, county, district, or city and county operating the public library as a result of the automatic termination of a locally approved special tax or benefit assessment for that public library. Requests for the waiver and substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(f) If the state allocations computed pursuant to this section exceed the total amount of funds appropriated for purposes of this section in any fiscal year, the State Librarian shall adjust on a pro rata basis public library allocations prescribed by this section so that the total amount in each fiscal year does not exceed this amount.

SEC. 6. Section 3102 of the Government Code is amended to read:

3102. (a) All disaster service workers shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required by this chapter.

(b) In the case of intermittent, temporary, emergency or successive employments, then in the discretion of the employing agency, an oath taken and subscribed as required by this chapter shall be effective for the purposes of this chapter for all successive periods of employment which commence within one calendar year from the date of that subscription.

(c) Notwithstanding subdivision (b), the oath taken and subscribed by a person who is a member of an emergency organization sanctioned by a state agency or an accredited disaster council, whose members are duly enrolled or registered with the Office of Emergency Services, or any accredited disaster council of any political subdivision, shall be effective for the period the person remains a member with that organization.

SEC. 7. Section 3105 of the Government Code is amended to read:

3105. (a) The oath or affirmation of any disaster service worker of the state shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed.

(b) The oath or affirmation of any disaster service worker of any county shall be filed in the office of the county clerk of the county or in the official department personnel file of the county employee who is designated as a disaster service worker. The oath may be destroyed without duplication five years after the termination of the employee's employment by the county.

(c) The oath or affirmation of any disaster service worker of any city shall be filed in the office of the city clerk of the city.

(d) The oath or affirmation of any disaster service worker of any other agency or district shall be filed with any officer or employee of the agency or district that may be designated by the agency or district.

SEC. 8. Section 6500.1 is added to the Government Code, to read:

6500.1. This chapter shall be known and may be cited as the Joint Exercise of Powers Act.

SEC. 9. Section 6523.5 of the Government Code is amended to read:

6523.5. Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Contra Costa may enter into a joint powers agreement with a public agency, as defined in Section 6500.

SEC. 10. Section 6523.6 of the Government Code is amended to read:

6523.6. (a) Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Tulare 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. 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.

(c) 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. 11. Section 6523.7 of the Government Code is amended to read:

6523.7. (a) Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Kings 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. 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.

(c) 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. 12. Section 6523.75 of the Government Code is amended and renumbered to read:

6523.9. (a) Notwithstanding any other provision of this chapter, a nonprofit hospital in the County of San Diego may enter into a joint powers agreement with any 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. 13. Section 15365.30 of the Government Code is amended to read:

15365.30. (a) The California Central Valley International Trade Center in Tulare County has been created for the purpose of assisting Central Valley businesses interested in expanding their markets.

(b) It is the intent of the Legislature that the Central Valley International Trade Center in Tulare County coordinate and work cooperatively with other ongoing international trade efforts in the Central Valley, including the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

SEC. 14. Section 16153 of the Government Code is repealed.

SEC. 15. Section 23119 of the Government Code is amended to read:

23119. The boundaries of Los Angeles County are as follows:

Beginning at a point in the southwesterly boundary line of the State of California, said point being on the southerly prolongation of the westerly boundary line of Rancho Topanga Malibu Sequit; thence northerly along said prolongation and westerly line of said rancho to the northwesterly corner thereof; thence northeasterly in a direct line to corner number seven of the boundary of Rancho Simi; thence easterly along line number seven, northerly along line number eight, easterly along line number nine of the boundary of Rancho Simi to corner number ten of the boundary of Rancho Simi; thence following the boundary line as surveyed by E. T. Wright and J. T. Stow, county surveyors, in June and July, 1881, as shown on map recorded in book 43, page 25 et seq., miscellaneous records of Los Angeles County as follows: north 105.01 chains to a point; thence north 07 degrees 29 minutes W., 157.50 chains to a point; thence north 21 degrees 57 minutes W., to a point in the north line of Sec. 4, T. 8 N., R. 19 W., S. B. M., distant westerly along said north line 1,400 feet, more or less, from the northeast corner of said Sec. 4, said point being common to the boundaries of Kern, Ventura and Los Angeles; thence east along the north line of T. 8 N., S. B. M., to the northeast corner of T. 8 N., R. 8 W., S. B. M., said corner being a point common to the boundaries of San Bernardino, Kern, and Los Angeles;

Thence south along the range line between R. 7 and 8 W., to the southeast corner of T. 6 N., R. 8 W., S. B. M.; thence east along the township line between T. 5 and 6 N., to the northeast corner of T. 5 N., R. 8 W., S. B. M.; thence south along the range line between R. 7 and 8 W., to a point in the east line of Sec. 12, T. 4 N., R. 8 W., S. B. M., distant southerly 940 feet, measured along said east line, from the northeast corner of said Sec. 12; thence southerly in a direct line to the summit of San Antonio Peak; thence southerly along a straight line which passes through the northwest corner of the Rancho Cucamonga

to a point in said straight line distant south 11°51′04″ west thereon, 333.81 feet from its intersection with the north line of Tract 37, T. 2 N., R. 7 W., S. B. M.; thence north 25°38′59″ west, 15.06 feet; thence south 70°15′29″ west, 47.76 feet; thence south 09°57′30″ east, 62.51 feet; thence south 34°17′02″ east, 36.94 feet to said straight line; thence continuing southerly along said straight line to a point in said straight line distant north 11°51′04″ east, 547.37 feet from its intersection with the south line of said Tract 37; thence south 84°57′02″ west, 35.25 feet; thence south 23°47′27″ west, 75.70 feet to the beginning of a nontangent curve concave to the southwest having a radius of 181.00 feet and to which beginning a radial line bears south 29°24′24″ west; thence southeasterly along said curve through a central angle of 12°08′32″ an arc distance of 38.36 feet to the beginning of a reverse curve concave to the northeast having a radius of 169.00 feet; thence southeasterly 16.07 feet along said curve through a central angle of 05°26′52″ to said straight line; thence southwest in a direct line to the northwest corner of Rancho Cucamonga, thence southwesterly along the northwesterly boundary line of Rancho Cucamonga to the most westerly corner of Rancho Cucamonga; thence southwesterly in a direct line to the northeast corner of Rancho San Jose; thence southwesterly and westerly along the easterly and southerly boundary lines of Rancho San Jose to the range line between R. 8 and 9 W. in T. 2 S., S. B. M.;

Thence south along the range line between R. 8 and 9 W., to the southeast corner of Sec. 12, T. 2 S., R. 9 W., S. B. M., said corner being an angle point in the boundary line of the Rancho Santa Ana del Chino; thence westerly, southwesterly, southerly, easterly, and southerly along the boundary line of the Rancho Santa Ana del Chino to the southwest corner of the Rancho Santa Ana del Chino, said corner being the center of Sec. 35, T. 2 S., R. 9 W., S. B. M.; thence southeasterly in a straight line to a point in the south line of Sec. 36, T. 2 S., R. 9 W., S. B. M., distant 52.84 feet easterly thereon from the southwest corner of said Sec. 36, said point being common to the boundaries of San Bernardino, Orange, and Los Angeles; thence westerly along the northern line of Orange to the southeasterly corner of Tract No. 46685 filed in Book 1209, pages 56 and 57, of Maps, in the office of the Recorder of the County of Los Angeles, said southeasterly corner being common to the boundaries of Orange and Los Angeles; thence northerly following along the boundary of said Tract No. 46685, the following courses: north 13°53′07″ east 100.12 feet, north 76°01′25″ west 1018.58 feet, north 85°34′56″ west 163.25 feet, and south 00°57′29″ west 47.01 feet to a point in the northerly line of Tract No. 25335, filed in Book 775, pages 35 and 36, of said Maps, said point distant westerly along said northerly line 10.26 feet from the northeasterly corner of said Tract No. 25335; thence northwesterly following along the boundary of said Tract No.

25335 the following courses: north 76°00′59″ west 1224.52 feet and south 00°52′39″ west 564.75 feet to a point on the boundary common to Orange and Los Angeles; thence westerly along the northern line of Orange to the southwesterly boundary line of the State of California; thence northwesterly along the southwesterly boundary line of the State of California to the point of beginning. Also the islands of Santa Catalina and San Clemente.

SEC. 16. Section 23130 of the Government Code is amended to read:

23130. The boundaries of Orange County are as follows:

Beginning at the northwest corner of San Diego County at a point in the Pacific Ocean opposite San Mateo point; thence northerly along the San Diego County line to the southerly line of the Rancho Mission Viejo as shown on the survey on file in book 8, pages 34 through 46 inclusive of Records of Survey in the office of the County Recorder of Orange County;

Thence, easterly and northeasterly to an angle point therein, said point being Rancho Mission Viejo Corner No. 7, as shown on said Record of Survey; thence northerly 12,693.95 feet along the northwestern boundary of San Diego County to the southwest corner of Section 33, T. 7 S., R. 6 W., said point being also the most southwest corner of Riverside County; thence northerly 1,324.46 feet along the western boundary of said Riverside County to the southwesterly corner of Government Lot 3, Fractional Section 33, T. 7 S., R. 6 W., S.B.M., as shown on that survey on file in book 122, pages 17 and 18 of Records of Survey in the office of the County Recorder of Orange County;

Thence leaving said western boundary south 89°25′11″ east, 2,042.68 feet to the southeast corner of the NE. $^1/_4$ of the SE. $^1/_4$ of said Section 33; thence north 01°00′50″ east, 1,320.33 feet to the northeast corner of the NE. $^1/_4$ of the SE. $^1/_4$ of said Section 33; thence north 00°27′14″ east, 2,647.46 feet to the northeast corner of said Section 33; thence along the north line of said section north 89°16′14″ west, 2,086.39 feet to the northwest corner of Government Lot 1 of said section, being a point on the existing western boundary of said Riverside County;

Thence along said boundary of Riverside County northerly, northeasterly, northwesterly, westerly, northerly, westerly and northwesterly to a point on the south line of Section 36, T. 3 S., R. 8 W., as shown on that survey on file in book 131, pages 24 and 25 of Records of Survey in the office of the Orange County Recorder, said point lying distant therein north 89°05′38″ west 151.58 feet from the southeast corner of said Section 36;

Thence leaving said existing boundary of Riverside County and along said south line north 89°05′38″ west, 2,484.00 feet; thence continuing along said south line, north 89°07′27″ west, 818.46 feet to the easterly

line of the Rancho Lomas de Santiago; thence along said easterly line north 02°53′27″ west, 3,273.18 feet to a point on a nontangent curve, concave to the northwest and having a radius of 1,550.00 feet, a radial from said point bears north 14°05′30″ west; thence easterly, leaving said east line, along said curve through a central angle of 15°01′17″ and arc length of 406.35 feet; thence nontangent to said curve, south 84°32′29″ east, 155.61 feet; thence north 65°40′06″ east, 75.15 feet; thence north 48°16′56″ east, 150.70 feet; thence north 68°49′57″ east, 35.37 feet to said existing boundary of Riverside County;

Thence northwesterly along the said boundary to the corner common to Riverside, San Bernardino, and Orange Counties; thence northwesterly along the southwest boundary of San Bernardino County to the point of intersection of said boundary with the southerly line of T. 2 S., R. 9 W., being also the corner common to San Bernardino and Los Angeles Counties; thence westerly along the township line between T. 2 and 3 S., to the northeast corner of Annexation 69-1 (Ryness-Smith No. 2) to the City of Brea, said point also being the southeast corner of Tract No. 46685, per map filed in Book 1209, pages 56 and 57, of Maps, in the office of the Recorder of the County of Los Angeles, being distant north 89°00′53″ west, 1670.40 feet from the northeast corner of Section 3, Township 3 South, Range 10 West; thence, leaving the Township line between T. 2 and 3 S., along the boundary line of said Tract No. 46685, the following courses: north 13°53′07″ east, along the easterly line of said Tract, 100.12 feet to the northeast corner thereof; thence, north 76°01′25″ west, along the northeasterly line of said Tract, 1018.58 feet to the easterly terminus of that course shown as ''north 86°32′58″ west, 163.32 feet'' on said Tract; thence, north 85°34′56″ west, along the northerly line of said Tract, 163.25 feet to the northwest corner thereof; thence, south 00°57′29″ west, along the most westerly line of said Tract, 47.01 feet, to the northeasterly boundary line of Tract No. 25335, per map filed in Book 775, pages 35 and 36, of Maps, in the office of the Recorder of the County of Los Angeles, said point being north 76°00′59″ west, along said northeasterly line 10.26 feet, from the northeast corner of said Tract; thence along the boundary of said Tract No. 25335, the following courses: north 76°00′59″ west, along said northeasterly line of said Tract, 1224.52 feet to the northwest corner thereof; thence south 00°52′39″ west, along the westerly line of said Tract, 564.75 feet to the southwest corner of said Tract, being a point of intersection with the Township line between T. 2 and 3 S., distant south 89°00′53″ east, 1449.86 feet from the northwest corner of said Section 3, Township 3 South, Range 10 West; thence, leaving said boundary of Tract No. 25335, westerly along the Township line between T. 2 and 3 S., to the corner common to T. 2 and 3 S., R. 10 and 11 W.; thence southerly along the range line between R. 10 and 11 W., to the southeast

corner of Section 13, T. 3 S., R. 11 W., in the Rancho Los Coyotes; thence in a general southwesterly direction along section lines, quarter section lines and quarter quarter section lines in the Rancho Los Coyotes, as follows: westerly along the section line to the quarter corner on the south line of said Section 13; thence southerly along the quarter section line to the center of Section 24, T. 3 S., R. 11 W.; thence westerly along the quarter section line to the quarter corner on the west line of said Section 24; thence southerly along the section line to the southwest corner of said Section 24; thence westerly along the section line to the quarter corner on the north line of Section 26, T. 3 S., R. 11 W.; thence southerly along the quarter section line to the center of said Section 26;

Thence westerly along the quarter section line to the quarter corner on the west line of said Section 26; thence southerly along the section line to the southwest corner of said Section 26; thence westerly along the section line to the northeast corner of Section 33, T. 3 S., R. 11 W.; thence southerly along the section line to the quarter corner on the east line of said Section 33; thence westerly along the quarter section line to the center of said Section 33; thence southerly along the quarter section line to the northeast corner of the SE. $^1/_4$ of the SW. $^1/_4$ of said Section 33; thence westerly along the quarter quarter section line to the center of the SW. $^1/_4$ of said Section 33; thence southerly along the quarter quarter section line to the south line of said Section 33; thence westerly along the township line between T. 3 and 4 S., to the northeast corner of Section 5, T. 4 S., R. 11 W.; thence southerly along the section line to the northeast corner of the SE. $^1/_4$ of said Section 5; thence westerly along the quarter section line to the northwest corner of the NE. $^1/_4$ of the SE. $^1/_4$ of said Section 5; thence southerly along the quarter quarter section line to the center of the SE. $^1/_4$ of said Section 5; thence westerly along the quarter quarter section line to the westerly line of the SE. $^1/_4$ of said Section 5; thence southerly along the quarter section line to the quarter corner on the south line of said Section 5; thence westerly along the section line to the northeast corner of the NW. $^1/_4$ of the NW. $^1/_4$ of Section 8, T. 4 S., R. 11 W.;

Thence southerly along the quarter quarter section lines to the northeast corner of the SW. $^1/_4$ of the SW. $^1/_4$ of said Section 8; thence southwesterly in a straight line to a point on the south line of the Moody Creek Channel as shown on that survey on file in book 120, page 5 of Records of Survey in the office of the Recorder of Orange County, said point being on a nontangent curve, concave southeasterly and having a radius of 950.00 feet, a radial from said point bears south 03°41′24″ east; thence westerly along said south line and said curve through a central angle of 26°34′39″ and an arc length of 440.67 feet to its point of intersection with the east line of the Coyote Creek Channel, said point being on a nontangent curve concave northwesterly and having a radius

of 5,200.00 feet, a radial from said point bears north 75°11′46″ west; thence southwesterly along said easterly line and said curve through a central angle of 03°10′38″ and an arc length of 288.36 feet; thence continuing along said easterly line, tangent to said curve, south 17°58′52″ west, 132.27 feet to a point on the existing boundary of Los Angeles County; thence southwesterly along said boundary in a straight line to the southwest corner of Section 8, T. 4 S., R. 11 W. said corner also being Los Angeles/Orange County Corner No. 11 as shown on Los Angeles County Surveyor's Map No. 8175 on file in the office of the Surveyor of the County of Los Angeles;

Thence south 00°11′50″ east, along the section line to a point on the boundary line between Rancho Los Coyotes and Rancho Los Alamitos, said point also being Los Angeles/Orange County Corner No. 10;

Thence south 59°07′40″ west, a distance of 3,391.48 feet to Los Angeles/Orange County Corner No. 9;

Thence south 39°48′20″ west, a distance of 5,650.97 feet to Los Angeles/Orange County Corner No. 8;

Thence south 11°36′55″ west, a distance of 2,241.41 feet to Los Angeles/Orange County Corner No. 7;

Thence south 27°55′55″ west, a distance of 8,375.40 feet to Los Angeles/Orange County Corner No. 6;

Thence south 31°22′50″ east, a distance of 1,296.21 feet to Los Angeles/Orange County Corner No. 5;

Thence south 27°12′00″ east, a distance of 2,106.10 feet to Los Angeles/Orange County Corner No. 4;

Thence south 16°46′45″ east, a distance of 1,444.82 feet to Los Angeles/Orange County Corner No. 3;

Thence south 2°48′35″ east, a distance of 2,207.94 feet to Los Angeles/Orange County Corner No. 2;

Thence south 57°10′40″ west, a distance of 8,238.78 feet to Los Angeles/Orange County Corner No. 1;

Thence south 33°00′00″ west, a distance of 622.43 feet to a point on the northeasterly line of block 59, Alamitos Bay tract, as shown on the map recorded in map book 5, page 137, on file in the office of the Recorder of the County of Los Angeles, distant thereon south 57°50′45″ east, a distance of 428.91 feet from the most northerly corner of said block 59; thence continuing south 33°00′00″ west, a distance of three miles, more or less to the southwesterly boundary line of the State of California (the boundary line between Los Angeles and Orange hereinabove described and established being shown on said county surveyor's map No. 8175; and likewise on map No. 300 on file in the office of the Surveyor of Orange County); thence southeasterly along the state line to the point of beginning.

SEC. 17. Section 23212 of the Government Code is amended to read:

23212. When a county boundary is changed pursuant to this article, the boards of supervisors of the affected counties shall file before the following December 1, with the State Board of Equalization and with the assessors of the affected counties, a statement setting forth the legal description of the boundary, as changed, together with a map or plat indicating the boundary. The change of the boundary shall not be effective for purposes of assessment or taxation unless the statement, together with the map or plat is filed with the assessors and the State Board of Equalization on or before December 1 of the year immediately preceding the year in which the assessments or taxes are to be levied.

SEC. 18. Section 23285 of the Government Code is amended to read:

23285. Whenever county boundaries are changed pursuant to this article, the board of supervisors of both affected counties shall cause to be filed before the following December 1, with the State Board of Equalization and with the assessors of both affected counties, a statement setting forth the legal description of the boundaries, as changed, together with a map or plat indicating those boundaries. The change of the boundaries shall not be effective for purposes of assessment or taxation unless the statement, together with the map or plat required by this section, is filed with the county assessors and with the State Board of Equalization on or before December 1 of the year immediately preceding the year in which the assessments or taxes are to be levied.

SEC. 19. Section 29321 of the Government Code is amended to read:

29321. The board of supervisors may establish a revolving fund for the use of any officer of the county by adopting a resolution setting forth: (a) the necessity for the fund, (b) the office, department, service, or institution for which the fund is available, and (c) the amount of the fund, which shall not exceed two hundred fifty thousand dollars ($250,000).

SEC. 20. Section 36501 of the Government Code is amended to read:

36501. The government of a general law city is vested in:

(a) A city council of at least five members.

(b) A city clerk.

(c) A city treasurer.

(d) A chief of police.

(e) A fire chief.

(f) Any subordinate officers or employees provided by law.

SEC. 21. Section 51283.4 of the Government Code is amended to read:

51283.4. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at the time that specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Section 51283, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of the fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that the amendment is consistent with the findings made pursuant to subdivision (a) of Section 51282.

(b) The landowner shall notify the board or council when he or she has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of the notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded.

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he or she is unable to satisfy. Within 30 days of receipt of the notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

SEC. 22. Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code is repealed.

SEC. 23. Article 7 (commencing with Section 51296) is added to Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 7. Farmland Security Zones

51296. The Legislature finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land. It is therefore the intent of the Legislature in enacting this article to encourage the creation of longer term voluntary enforceable restrictions within agricultural preserves.

51296.1. A landowner or group of landowners may petition the board to rescind a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also petition the board to create a farmland security zone for the purpose of entering into farmland security zone contracts pursuant to this section.

(a) Before approving the rescission of a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land under a new farmland security zone contract, the board shall create a farmland security zone, pursuant to the requirements of Section 51230, within an existing agricultural preserve.

(b) No land shall be included in a farmland security zone unless expressly requested by the landowner. Any land located within a city's sphere of influence shall not be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence.

(c) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

(d) A contract entered into pursuant to this section shall be for an initial term of no less than 20 years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, a year shall be added automatically to the initial term unless a notice of nonrenewal is given pursuant to Section 51245.

(e) Upon termination of a farmland security zone contract, the farmland security zone designation for that parcel shall simultaneously be terminated.

51296.2. Both of the following shall apply to land within a designated farmland security zone:

(a) The land shall be eligible for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code.

(b) Notwithstanding any other provision of law, any special tax approved by the voters for urban-related services on or after January 1, 1999, on the land or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements.

51296.3. Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a city. However, this subdivision shall not apply under any of the following circumstances:

(a) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(b) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in subdivision (f) or (g) of this section.

(c) If the landowner consents to the annexation.

51296.4. Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a special district that provides sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the change of organization or reorganization.

51296.5. Notwithstanding Article 5 (commencing with Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to the use of land by the school district if the land is within a designated farmland security zone.

51296.6. Notwithstanding any other provision of law, a school district shall not acquire any land that is within a designated farmland security zone.

51296.7. The board shall not approve any use of land within a designated farmland security zone based on the compatible use provisions contained in subdivision (c) of Section 51238.1.

51296.8. Sections 51296 to 51297.4, inclusive, shall only apply to land that is designated on the Important Farmland Series maps, prepared pursuant to Section 65570 as predominantly one or more of the following:

(a) Prime farmland.

(b) Farmland of statewide significance.

(c) Unique farmland.

(d) Farmland of local importance.

If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Section 51201.

51296.9. Nonrenewal of a farmland security zone contract shall be pursuant to Article 3 (commencing with Section 51240), except as otherwise provided in this article.

51297. A petition for cancellation of a farmland security zone contract created under this article may be filed only by the landowner with the city or county within which the contracted land is located. The city or county may grant a petition only in accordance with the procedures provided for in Article 5 (commencing with Section 51280) and only if all the following requirements are met:

(a) The city or county shall make both of the findings specified in paragraphs (1) and (2) of subdivision (a) of Section 51282, based on substantial evidence in the record. Subdivisions (b) to (e), inclusive, of Section 51282 shall apply to the findings made by the city or county.

(b) In its resolution tentatively approving cancellation of the contract, the city or county shall find all of the following:

(1) That no beneficial public purpose would be served by the continuation of the contract.

(2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.

(3) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283.

(c) The Director of Conservation approves the cancellation. The director may approve the cancellation after reviewing the record of the tentative cancellation provided by the city or county, only if he or she finds both of the following:

(1) That there is substantial evidence in the record supporting the decision.

(2) That no beneficial public purpose would be served by the continuation of the contract.

(d) A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to Section 51295, may be substituted for the finding in subdivision (a).

51297.1. All of the provisions of Article 6 (commencing with Section 51290) shall apply to farmland security zones created pursuant to this article except as specifically provided in this article.

51297.2. No state agency, as defined in Section 65934, or local agency, as defined in Section 65930, shall require any land to be placed

under a farmland security zone contract as a condition of the issuance of any entitlement to use or the approval of a legislative or adjudicative act involving, but not limited to, the planning, use, or development of real property, or a change of organization or reorganization, as defined in Section 56021 or 56073. No contract shall be executed as a condition of an entitlement to use issued by an agency of the United States government.

51297.3. Sections 51296.3 and 51296.4 shall not apply during the three-year period preceding the termination of a farmland security zone contract.

51297.4. Nothing in Sections 51296 to 51297.4, inclusive, shall be construed to limit the authority of a board to rescind a portion or portions of a Williamson Act contract or contracts for the purpose of immediately enrolling the land in a farmland security zone contract so long as the remaining land is retained in a Williamson Act contract and the board determines that its action would improve the conservation of agricultural land within the county where the rescission occurs. The creation of multiple contracts under this section does not constitute a subdivision of the land.

SEC. 24. Section 54988 of the Government Code is amended to read:

54988. (a) (1) In addition to any other remedy provided by law, including the current powers of charter cities, the legislative body of a city, county, or city and county may collect any fee, cost, or charge incurred in (A) the abatement of public nuisances; (B) the correction of any violation of any law or regulation that would also be a violation of Section 1941.1 of the Civil Code; (C) the enforcement of zoning ordinances adopted pursuant to Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 or any other constitutional or statutory authority; (D) inspections and abatement of violations of Article 1 (commencing with Section 13100) of Chapter 2 of Part 2 of Division 12 of the Health and Safety Code; (E) inspections and abatement of violations of the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and regulations adopted pursuant thereto; (F) inspections and abatement of violations of the California Building Standards Code, Title 24 of the California Code of Regulations; or (G) inspections and abatement related to local ordinances and regulations that implement any of the foregoing, if the fee, cost, or charge has not been paid within 45 days of notice thereof, by making the amount of the unpaid fee, cost, or charge a proposed lien against the property that is the subject of the enforcement activity. Except as provided in subdivision (c), the amount of the proposed lien may be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and

enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

(2) The amount of any fee, cost, or charge shall not exceed the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

(3) This section shall not apply to owner-occupied residential dwelling units.

(4) This section does not apply to any enforcement, abatement, correction, or inspection activity regarding a violation in which the violation was evident on the plans that received a building permit.

(b) (1) A city, county, or city and county shall provide the owner of the property with written notice in plain language of the proposed lien, a description of the basis for the amounts comprising the lien, a minimum of 45 days after notice to pay the fee, cost, or charge, and an opportunity to appear before the legislative body and be heard regarding the amount of the proposed lien. The notice shall be mailed by certified mail to the last known address of the owner of the property.

(2) In any city, county, or city and county, the legislative body may delegate the holding of the hearing required by paragraph (1) to a hearing board designated by the legislative body. The hearing board may be the housing appeals board established pursuant to Section 17920.5 of the Health and Safety Code or any other body designated by the legislative body. The hearing board shall make a written recommendation to the legislative body which shall include factual findings based on evidence introduced at the hearing. The legislative body may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the legislative body. Notice in writing of the de novo hearing shall be provided to the property owner at least 10 days in advance of the scheduled hearing.

(c) If the legislative body determines that the proposed lien authorized pursuant to subdivision (a) shall become a lien, the body may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the county recorder of the county in which the property is situated and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which

the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

SEC. 25. Division 2 (commencing with Section 60400) of Title 6 of the Government Code is repealed.

SEC. 26. Section 61737.05 of the Government Code is amended to read:

61737.05. (a) Bond principal and interest and salaries shall be paid when due. Except as provided in subdivisions (b) and (c), all other claims and demands shall be approved in an open meeting by a majority of the members of the board.

(b) Warrants drawn in payment of claims and demands approved by the finance officer as conforming to an approved budget need not be approved by the board prior to payment.

(c) Claims and demands paid by warrants pursuant to subdivision (b) shall be presented to the board for ratification and approval in the audited comprehensive annual financial report.

SEC. 27. Section 65400 of the Government Code is amended to read:

65400. After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(b) (1) Provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the plan and progress in its implementation, including the progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(2) The housing portion of the annual report required to be provided to the Office of Planning and Research and the Department of Housing and Community Development pursuant to this subdivision shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2). This report shall be provided to the legislative body, the Office of

Planning and Research, and the Department of Housing and Community Development on or before October 1 of each year.

SEC. 28. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is ''individually owned'' if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, ''agricultural purposes'' means the cultivation of food or fiber, or the grazing or pasturing of livestock.

SEC. 29. Section 66451.17 of the Government Code is amended to read:

66451.17. If, within the 30-day period specified in Section 66451.14, the owner does not file a request for a hearing in accordance with Section 66451.16, the local agency may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 66451.12 no later than 90 days following the mailing of notice required by Section 66451.13.

SEC. 30. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of five years. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is, or was, pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (b), (c), and (d) of Section 66498.5 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (b), (c), and (d) of Section 66498.5 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 31. Section 66499.19 of the Government Code is amended to read:

66499.19. When a reversion is effective, all fees and deposits shall be returned to the current owner of the property and all improvement security released, except those retained pursuant to Section 66499.17.

SEC. 32. Division 36 (commencing with Section 56000) of the Health and Safety Code is repealed.

SEC. 33. Section 3211.92 of the Labor Code is amended to read:

3211.92. (a) ''Disaster service worker'' means any natural person who is registered with an accredited disaster council or a state agency for the purpose of engaging in disaster service pursuant to the California Emergency Services Act without pay or other consideration.

(b) ''Disaster service worker'' includes public employees performing disaster work that is outside the course and scope of their regular employment without pay and also includes any unregistered person impressed into service during a state of war emergency, a state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties.

(c) Persons registered with a disaster council at the time that council becomes accredited need not reregister in order to be entitled to the benefits provided by Chapter 10 (commencing with Section 4351).

(d) ''Disaster service worker'' does not include any member registered as an active firefighting member of any regularly organized volunteer fire department, having official recognition, and full or partial support of the county, city, or district in which the fire department is located.

SEC. 34. Section 3211.93a of the Labor Code is amended to read:

3211.93a. ''Disaster service'' does not include any activities or functions performed by a person if the accredited disaster council with which that person is registered receives a fee or other compensation for the performance of those activities or functions by that person.

SEC. 35. Section 26593 of the Public Resources Code is amended to read:

26593. A district may borrow money from or otherwise incur an indebtedness to a local agency, the state, any instrumentality or political subdivision thereof, the federal government, or any private source, and

may comply with any conditions imposed upon the incurring of that indebtedness.

SEC. 36. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, ''commission'' means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an ''expertise in aviation'' means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.

(f) It is the intent of the Legislature to clarify that, for the purposes of this article, special districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

SEC. 37. Section 10 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 66 of Chapter 829 of the Statutes of 1998, is amended to read:

Sec. 10. (a) For the purposes of this section, the following definitions apply to the terms used: the term ''city'' means and includes any municipal corporation or municipality of the State of California, whether organized under a freeholder's charter or under the provisions of general law of the type and class of cities and incorporated towns; and the term ''water district'' means and includes any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or any other public corporation or agency of the State of California of similar character.

(b) Territory may be annexed to any county water authority organized under this act by one of the following methods:

(1) By annexation to, or consolidation with, the area of any city, the area of which, as a separate unit, has become a part of any county water authority organized under this act, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding.

(2) By annexation to, or consolidation with, any city which, as a separate unit, has become a part of any water district whose area, as a separate unit, has become a part of any county water authority organized under this act, in instances where, under the applicable provisions of law governing the change of boundaries of the water district, the annexation or consolidation automatically will result in the enlargement of the area of the water district, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the water district and of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the water district and of the county water authority, including payment of bonds and other obligations of the water district and of the county water authority at the time authorized or outstanding. If any territory has been so annexed to, or consolidated with, any city prior to the effective date of this paragraph, under conditions which would have resulted in the enlargement of the area of the county water authority had this paragraph then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be annexed to, and shall become and be part of, the county water authority and shall be a part of the water district for all purposes, the last-mentioned provisions being as follows:

(A) The governing body of the city, at any time after the effective date of this paragraph, may adopt an ordinance which, after reciting that the territory has been annexed to, or consolidated with, the city by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date and place of filing of the certificate or certificates evidencing the annexation or consolidation, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, annexed to the county water authority, and the ordinance shall further determine and declare that the territory shall become and be, and thereby is, a part of the county water authority, and shall be, and thereby is, a part of the water district for all purposes.

(B) The governing body, or clerk thereof, of the city shall file a certified copy of the ordinance with the county clerk of the county in which the county water authority is situated. Upon the filing of the certified copy of the ordinance in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority and shall be a part of the water district for all purposes, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority and of the water district, including the payment of bonds and

other obligations of the county water authority at the time authorized or outstanding.

(C) Upon the filing of the certified copy of the ordinance, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, describing the territory, reciting the filing of the certified copy of the ordinance and the annexation of the territory to the county water authority, and declaring that the territory is a part of the county water authority and of the water district. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority and a duplicate of the original certificate to the clerk of the governing body of the water district.

(3) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (c), by direct annexation, as a separate unit, of the corporate area of any water district or city.

(4) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (d), by annexation to, or consolidation with, any water district, the area of which, in whole or in part, is included within the county water authority as a separate unit; provided that, unless the territory is so annexed to the county water authority with the consent of the board of directors, the annexation of territory to, or the consolidation of the territory with, the water district does not authorize or entitle the water district or the territory to demand or receive any water from the county water authority for use in the territory; and provided further, that, except where automatic annexation results under the conditions specified in paragraph (2), nothing in this act prevents the annexation of territory to, or the consolidation of territory with, any water district for its local purposes only and without annexing their territory to the county water authority, and the local annexation or consolidation may occur without requesting or obtaining the consent thereto of the board of directors of the county water authority.

(c) The governing body of any water district or city may apply to the board of directors of the county water authority for consent to annex the corporate area of the water district or city to the county water authority. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the corporate area of the water district or city may be annexed to, and become a part of, the county water authority. These terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the water district or city, in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case these terms and

conditions provide for the levy of these special taxes, the board of directors, in fixing these terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising the aggregate sum, and that substantially equal annual levies will be made for the purpose of raising the sum over the period so prescribed. The action of the board of directors, evidenced by resolution, shall be promptly transmitted to the governing body of the applying water district or city and, if the action grants consent to the annexation, the governing body may thereupon submit, to the qualified electors of the water district or city at any general or special election held therein, the proposition of the annexation subject to the terms and conditions. Notice of the election shall be mailed to each voter qualified to vote at the election and shall be given by posting or publication. When notice is given by posting, the notices shall be posted at least 10 days and in three public places in the water district or city. When notice is given by publication, the notice shall be published in the water district or city pursuant to Section 6061 of the Government Code, at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in the water district or city. If the proposition receives the affirmative vote of a majority of electors of the water district or city voting thereon at the election, the governing body of the water district or city shall certify the result of the election on the proposition to the board of directors of the county water authority, together with a legal description of the boundaries of the corporate area of the water district or city, accompanied by a map or plat indicating those boundaries. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the corporate area of the water district or city shall become, and be, an integral part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed as authorized. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, reciting the filing of the papers and the annexation of the corporate area of the water district or city to the county water authority. The county clerk of the county in which the county water

authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(1) If a water district applies to a county water authority for consent to annex its corporate area, as a separate unit, the water district shall include as a part of its corporate area the corporate areas of any cities (whether one or more) which are already included within the county water authority as separate units, or the water district shall include as a part of its corporate area the corporate areas, or portion thereof, already included within the county water authority, of any water districts (whether one or more) whose corporate areas, in whole or in part, are already included within the county water authority as separate units. That fact shall be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the applying water district may be annexed to the county water authority, to the end that the areas within the unit member cities or water districts which are already a part of the county water authority, shall not be required to assume any greater financial burden or obligation to the county water authority than they would have had if they had remained a part of the county water authority as separate units.

Concurrently with any election called by an applying water district to submit to the qualified electors of the water district the question of whether the terms and conditions fixed by the board of directors of the county water authority for annexation shall be approved, the governing bodies of the unit member cities or water districts may call and hold elections within their respective corporate limits or portions thereof already included within the county water authority, to determine whether or not the cities or water districts shall withdraw from the county water authority as separate units, and the proposed withdrawal may be made and submitted conditioned upon and effective when the applying water district has finally been annexed to the county water authority.

The effect of the concurrent elections, if a majority of the electors of the applying water district voting thereat vote in favor of annexation, and a majority of the electors of the unit member cities or water districts voting thereat vote in favor of withdrawing, shall be that the annexing water district thereafter shall be authorized to exercise the privileges and to discharge the duties prescribed in this act for public agencies whose areas, as separate units, are included within the county water authority, in place of and instead of the cities or water districts so withdrawing. Notwithstanding Section 11 of this act, the areas within the withdrawing cities or water districts shall remain a part of the county water authority and shall not be excluded therefrom, notwithstanding the fact that the cities or water districts, as corporate entities, have withdrawn from the authority.

If the water district does annex to the county water authority, the directors representing the withdrawing cities or water districts on the board of directors of the county water authority shall continue to act until their successors have been chosen and designated by the appropriate officers of the annexing water district and have qualified as members of the board of directors of the county water authority, after which time the directors representing the withdrawing cities or water districts shall no longer sit or vote on the board.

(2) If a water district applies to a county water authority for consent to annex its corporate area as a separate unit, the water district shall include as a part of its corporate area lands which are in public ownership exempt from taxation by a county water authority, and not within or adjacent to the area within the water district served with water by the district, and which are not to be supplied by the water district with water obtained from, and by reason of, its annexation to the county water authority. That fact may be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the water district may be annexed to the county water authority and in determining the boundaries of the area to be annexed, and the county water authority may, in the discretion of its board of directors, annex all of the corporate area of the water district as a separate unit excepting that portion consisting of the publicly owned and tax-exempt lands.

(d) The governing body of any water district, the area of which, in whole or in part, is included within a county water authority as a separate unit, may apply to the board of directors of the county water authority for consent to annex to the county water authority territory which the water district seeks to annex to, or consolidate with, the water district, or territory which, without making the territory a part of the county water authority, already has been annexed to, or consolidated with, the water district. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the territory may be annexed to, and become a part of, the county water authority. The terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the territory in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case the terms and conditions provide for the levy of those special taxes, the board of directors, in fixing those terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising that aggregate sum and that substantially equal annual levies will be made for the purpose of raising that sum over the period so prescribed. The action of the board of directors evidenced by resolution shall be promptly transmitted to the governing body of the applying

water district and to the executive officer of the local agency formation commission of the county in which the county water authority is situated, who may defer the issuance of a certificate of filing until receipt of that resolution, and if the action grants consent to the annexation, the territory may be annexed to the county water authority as provided in paragraph (1) or (2).

(1) If the territory has not been previously annexed to, or consolidated with, the water district, upon completion of the annexation to, or consolidation with, the water district in compliance with the provisions of law applicable thereto, including this section, the territory shall become and be a part of the county water authority and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed; provided that, if the applicable provisions of law governing the annexation to, or consolidation with, the water district require any notice of any election called for the purpose of determining whether the proposed annexation or consolidation shall occur, or shall require any notice of hearing or other notice to be given to the residents or electors of, or owners of property in, the territory, the notice shall contain the substance of the terms and conditions of annexation to the county water authority fixed by the board of directors of the county water authority; and provided further, that the local agency formation commission shall require that the annexation to the water district be subject to the terms and conditions fixed by the board of directors of the county water authority in addition to any other terms and conditions that may be required by the commission; and provided further, that the executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion resulting in the annexation to, or consolidation with, the water district, pursuant to the provisions of law applicable thereto, shall include in the certificate of completion the terms and conditions fixed by the board of directors of the county water authority in accordance with the provisions of this act, and shall file a duplicate of the certificate with the board of directors of the county water authority.

(2) If the territory sought to be annexed to a county water authority has been previously annexed to, or consolidated with, the water district, the governing body of the water district, upon being advised of the action of the board of directors of the county water authority, and if the action grants consent to the annexation, may submit to the qualified electors of the territory, if the territory has 12 or more registered voters, at any general or special election held therein, the proposition of the annexation

to the county water authority subject to the terms and conditions fixed by the board of directors of the county water authority. Notice of the election shall be given by publication. When the notice is given by posting, the notice shall be posted at least 10 days and in three public places in the territory. When the notice is given by publication, the notice shall be published in the water district pursuant to Section 6061 of the Government Code at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed by the governing body of the water district in the manner provided by law for elections in the water district. If the proposition receives the affirmative vote of a majority of electors of the territory voting thereon at the election, the governing body of the water district shall certify the result of the election on the proposition to the board of directors of the county water authority. If the territory has less than 12 registered voters, no election shall be required, and, following written notice to each owner of property shown on the last equalized assessment roll and the holding of a hearing not less than 10 days after that notice, the annexation may be approved upon the written consent of the owners of more than 50 percent of the assessed valuation of the territory. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation of the territory to the county water authority fixed by its board of directors. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of the papers and the annexation of the territory to the county water authority. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(e) Should the corporate area, or all portions thereof already included within a county water authority, of any water district or city, the corporate area of which, in whole or in part, already is included within the county water authority as a separate unit, annex to a water district or city the corporate area of which, in whole or in part, already is a part of

the county water authority as a separate unit, upon the completion of the annexation pursuant to the law pertaining thereto, the water district or city, the corporate area (or portions thereof) of which is so annexed, shall automatically cease to be a separate unit member of the county water authority, but the corporate area (or portions thereof) shall remain a part of the county water authority as a part of the unit member water district or city to which it was annexed. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing the certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

Should any water district or city, the corporate area of which, in whole or in part, already is included within a county water authority as a separate unit, consolidate with a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, under the provisions of any law by the terms of which, after consolidation, a new district or city will result and the former water districts or cities participating in the consolidation shall no longer exist, the resulting new water district or city shall be substituted for the water districts or cities whose corporate existence has been terminated by the consolidation as a unit member of the county water authority, and the corporate areas (or portions thereof) of the former water district or cities shall remain a part of the county water authority as a part of the consolidation. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

(f) The validity of any proceedings for the annexation to any county water authority organized under this act, of the corporate area of a water district or city as a separate unit, or of territory annexed to, or consolidated with, a water district or city which, as a unit, has been included within a county water authority, shall not be contested in any action unless the action has been brought within three months after the completion of the annexation or, in case the annexation is completed prior to the time that this subdivision takes effect, then within three months after this subdivision became effective.

(g) Whenever territory is annexed to or consolidated with any water district, the corporate area of which, as a unit, has become a part of any county water authority organized under this act, regardless of whether the territory is annexed to and becomes a part of the county water authority, or whenever territory is annexed to any city under the conditions specified in paragraph (1) or (2) of subdivision (b), or whenever territory previously annexed to any city is annexed to the

county water authority under the conditions specified in paragraph (2) of subdivision (b), the governing or legislative body, or clerk thereof, of the water district or city, shall file with the board of directors of the county water authority a statement of the change of boundaries of the water district or city, setting forth the legal description of the boundaries of the water district or city, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

(h) The inclusion in a county water authority of the corporate area, in whole or in part, of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, referred to in Section 2, shall not destroy the identity or legal existence or impair the powers of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, notwithstanding the identity of purpose or substantial identity of purpose of the county water authority.

(i) In determining the number of members of the board of directors of a county water authority organized under this act from the component public agencies, the corporate areas of which, in whole or in part, are included as units within the county water authority, there shall be considered only the assessed valuation of the property taxable for county water authority purposes lying in the public agencies and in the county water authority. The directors shall be appointed by the chief executive officers, with the consent and approval of the governing bodies, of the component public agencies, respectively, without regard to whether the chief executive officers or members of the governing bodies have been chosen from, or represent, areas of their respective public agencies which lie outside of the county water authority. The phrase ''any water district, the corporate area of which is included within the county water authority'' and the phrase ''each city, the area of which shall be a part of any county water authority incorporated under this act,'' and like phrases, used elsewhere in this act, shall be deemed to mean and refer to any water district or city, the corporate area of which, either in whole or in part, is included within the county water authority, but the duties and obligations of the county water authority shall extend only to that part of the corporate area of the water district or city that lies within the county water authority. As to the water district, city, or public agency, the corporate area of which lies partly within and partly without the county water authority, the word ''therein'' and the phrase ''within the city'' and like words and phrases, used elsewhere in this act, shall be deemed to mean and refer to that part of the corporate area of the water district, city, or public agency which lies within the county water

authority. The charges for water supplied by the county water authority to any component public agency, pursuant to its request, shall be and become an obligation of the public agency, regardless of whether the entire corporate area of the public agency is included within the county water authority, and the county water authority, in administrative and contractual matters, shall deal with the chief executive officers and governing bodies and other proper officials of the component public agencies as chosen or constituted under applicable laws governing the respective public agencies.

SEC. 38. Section 10.2 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 67 of Chapter 829 of the Statutes of 1998, is amended to read:

Sec. 10.2. (a) Notwithstanding any other provisions of this act, territory within a federal military reservation may be annexed to any county water authority organized hereunder as a single member of an authority in the manner provided in this section. As used in this section, ''federal military reservation'' or ''military reservation'' means a single federal military reservation or separate but contiguous federal military reservations which are jointly annexed to a county water authority as a single member agency of an authority.

(b) Proceedings for the annexation of a military reservation shall be initiated by the adoption by the board of directors of an authority of a resolution proposing annexation of a military reservation to an authority as a member of an authority.

(c) The resolution proposing the annexation may provide that the annexation shall include one or more separate areas, which may be separately identified for assessing and tax collecting purposes, and that each such area may be subject to one or more of the following terms and conditions:

(1) The fixing and establishment of priorities for the use of, or right to use, water, or capacity rights in any public improvement or facilities, and the determination of, or limitation on, the quantity of, the purposes for which, and the places where, water may be delivered by the authority to the military reservation for military purposes and uses incidental thereto, as well as for nonmilitary purposes.

(2) The levying by the authority of special taxes upon any private leasehold, possessory interest or other taxable property within the territory annexed, and the imposition and collection of special fees or charges prior to the annexation.

(3) Should portions of any area annexed hereunder be subsequently made available for nonmilitary purposes not in existence at the time of the annexation of the area, the board of directors of the authority may impose new terms and conditions for any subsequent service of water, directly or indirectly, by the authority to that area, including the

separation of such an area for assessing and tax collecting purposes and the levying by the authority of special taxes on those portions.

(4) The effective date of the annexation.

(5) Any other matters necessary or incidental to any of the foregoing.

(d) A certified copy of the resolution proposing annexation shall be sent to the official in authority over the military reservation. If the military reservation consents in writing to the annexation and to the terms and conditions established by the board of directors, the board may, by resolution, order the annexation to the authority of the territory situated within the military reservation, subject to said terms and conditions.

(e) A certificate of proceedings taken hereunder shall be made by the secretary of the authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing in his or her office of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of those papers in his or her office and the annexation of the territory to the authority. The county clerk of the county in which the county water authority is situated shall transmit the original of said certificate to the secretary of the authority.

(f) Upon the filing of the certificate of proceedings with the county clerk of the county in which the county water authority is situated, or upon the effective date of the annexation provided for in the terms and conditions, whichever is later, the territory within the military reservation shall become and be an integral part of the authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of said authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding, and the board of directors of the authority shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

(g) On and after the effective date of the annexation, the military reservation shall be a separate unit member of the authority and shall be entitled to one representative on the board of directors of the authority. For the purposes of this act, a military reservation shall be deemed a public agency. The representative shall be designated and appointed by the official in authority over the military reservation, shall hold office for a term of six years or until his or her successor is appointed and qualified, and may be recalled by that official.

(h) The transfer of ownership of the fee title of a military reservation, or of any portion thereof, to nonmilitary ownership after annexation to the authority pursuant to this section shall result in the automatic exclusion from the authority of the territory transferred to that ownership.

(i) If a county water authority is a member public agency of a metropolitan water district organized under the Metropolitan Water District Act (Chapter 200 of the Statutes of 1969), that metropolitan water district may impose any or all of the terms and conditions that may be imposed by a county water authority pursuant to subdivisions (a) through (h) of this section in any resolution fixing the terms and conditions for the concurrent annexation of territory in a military reservation.

SEC. 39. Section 901 of the Pajaro River Watershed Flood Prevention Authority Act (Chapter 963 of the Statutes of 1999), is repealed.

SEC. 40. (a) The County of Riverside and the legislative body of Community Facilities District No. 89-5 of the County of Riverside may transfer the governance of that district to the Rancho California Water District consistent with Article 6 (commencing with Section 53368) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) For the purposes of this section, ''city,'' as defined in Section 53368 of the Government Code, shall include the Rancho California Water District.

(c) In enacting this section, 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 geographical and fiscal circumstances involving Community Facilities District No. 89-5 of the County of Riverside.

CHAPTER 507

An act to amend Section 32515 of the Public Resources Code, relating to the San Joaquin River Conservancy.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. It is the intent of the Legislature to provide adequate state resources for future maintenance and operation of the San Joaquin River Parkway.

SEC. 2. Section 32515 of the Public Resources Code is amended to read:

32515. (a) The governing board of the conservancy shall consist of 15 voting members.

(b) The 15 voting members of the board shall consist of the following:

(1) One member of the Board of Supervisors of Fresno County appointed by a majority of the members of that board. A majority of the members of the Board of Supervisors of Fresno County may appoint an alternate member from that board.

(2) The Mayor of the City of Fresno or a member of the Fresno City Council designated by the Mayor of the City of Fresno. The Mayor of the City of Fresno may designate an alternate member from the Fresno City Council.

(3) One member of the Board of Supervisors of Madera County appointed by a majority of the members of that board. A majority of the members of the Board of Supervisors of Madera County may appoint an alternate from that board.

(4) The Mayor of the City of Madera or a member of the Madera City Council designated by the Mayor of the City of Madera. The Mayor of the City of Madera may designate an alternate member from the Madera City Council.

(5) (A) Except as provided in subparagraph (C), one resident of Fresno County appointed by the Governor from a list of candidates provided by the Board of Supervisors of Fresno County. The board of supervisors shall develop its list from a list submitted by environmental organizations within that county. The board of supervisors may establish additional criteria for that appointment.

(B) Except as provided in subparagraph (C), one resident of Madera County appointed by the Governor from a list of property owners of San Joaquin River bottom in that county submitted by the Board of Supervisors of Madera County. The board of supervisors may establish additional criteria for that appointment.

(C) Fresno County and Madera County shall rotate appointment qualifications pursuant to this paragraph so that each alternative time the Board of Supervisors of Madera County shall submit a list of candidates to the Governor derived from a list submitted by environmental organizations within that county and the Board of Supervisors of Fresno County shall submit a list of candidates to the Governor of property owners of San Joaquin River bottom in that county.

(6) One resident of the City of Fresno appointed by the Governor from a list submitted by the Fresno City Council. The city council may establish criteria for that appointment.

(7) The Executive Director of the Wildlife Conservation Board or a member of his or her staff designated by the executive director.

(8) The Secretary of Resources or a member of his or her staff designated by the secretary.

(9) The Director of Fish and Game or a member of his or her staff designated by the director.

(10) The Director of Parks and Recreation or a member of his or her staff designated by the director.

(11) The Director of Finance or a member of his or her staff designated by the director.

(12) The Executive Officer of the State Lands Commission or a member of his or her staff designated by the executive officer.

(13) The Chairperson of the Board of Directors of the Fresno Metropolitan Flood Control District, or his or her designee.

(14) The Chairperson of the Board of Directors of the Madera Irrigation District, or his or her designee.

CHAPTER 508

An act to amend Section 17375 of, and to add Section 13401.3 to, the Corporations Code, and to amend Sections 714, 720, 732, 733, and 739 of, and to add Section 729.5 to, the Harbors and Navigation Code, relating to yacht and ship brokers.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 13401.3 is added to the Corporations Code, to read:

13401.3. As used in this part, ''professional services'' also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigations Code).

SEC. 1.5. Section 17375 of the Corporations Code is amended to read:

17375. Nothing in this title shall be construed to permit a domestic or foreign limited liability company to render professional services, as defined in subdivision (a) of Section 13401 and in Section 13401.3, in this state.

SEC. 2. Section 714 of the Harbors and Navigation Code is amended to read:

714. A licensed broker who accepts funds from others in connection with any transaction subject to this article who does not, as soon as possible, place those funds into a neutral escrow depository, shall place the funds into a trust fund account maintained by the broker in some bank or recognized depository and shall retain all the funds in the account until

the broker makes a disbursement of the funds in accordance with written instructions from the person entrusting the money. The written instructions shall also set forth the specific purposes for which the broker may use money deposited with him or her. If the broker wishes to use money from the deposit for a purpose not included in the written instructions, the broker shall first obtain the written consent of the person entrusting the money specifically authorizing the use proposed by the broker for the money. The written consent may be given to the broker by a letter or facsimile. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof. Any funds received by a licensed salesperson shall be delivered by the salesperson to the broker under whom the salesperson is at the time licensed.

As used in this section, ''neutral escrow'' means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described by subdivision (a) or (c) of Section 17006 of the Financial Code.

SEC. 2.5. Section 720 of the Harbors and Navigation Code is amended to read:

720. The department may require proof as it deems advisable concerning the honesty, truthfulness, and good reputation of the applicant for a broker's or salesperson's license or of the officers of any corporation making application before the issuance of a broker's license. For this purpose, the director may call a hearing in accordance with this article, and at the request of the applicant shall call a hearing.

SEC. 3. Section 729.5 is added to the Harbors and Navigation Code, to read:

729.5. (a) Any limited liability company licensed by the department as a yacht broker on July 1, 2001, in order to continue to be licensed after that date, shall apply to the department in the form of an individual, partnership, or corporation for a broker's license on or before the expiration date of its existing license.

(b) On or before February 1, 2001, the department shall provide notice of the requirements imposed by subdivision (a) to any limited liability company licensed by the department.

SEC. 4. Section 732 of the Harbors and Navigation Code is amended to read:

732. The department may deny an application or temporarily suspend or permanently revoke the license of a broker or a salesperson at any time if the licensee, while a broker or salesperson, in performing or attempting to perform any of the acts within the scope of this article, has committed any of the following acts:

(a) Makes any substantial misrepresentation, including a false advertisement or an omission of relevant facts upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this article.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without full disclosure of that fact to the buyer and seller and their written consent, except in the case where the selling broker is not the listing broker.

(e) Commingles the money or other property of his or her principal with that of his or her own or uses it for any purpose other than that for which it was entrusted, when the yacht involved in the transaction is not his or her own.

(f) Disburses or uses entrusted money for purposes other than those specifically authorized by Section 714.

(g) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring a listing or participating in a transaction.

(h) Quotes prices different from the gross listing prices without the consent of the seller.

(i) Engages in any other conduct constituting fraud or dishonest dealings, either with respect to his or her principal or other persons.

(j) Permits his or her name to be used for the purpose of assisting any person who is not a licensed broker or salesperson to evade this article.

(k) Demonstrates negligence or incompetence in performing any act for which he or she is required to hold a license.

(*l*) As a broker licensee, fails to exercise reasonable supervision over the activities of his or her salespersons, or, as the person designated by a corporate or partnership licensee, fails to exercise reasonable supervision and control over the activities of the corporation or partnership for which a yacht and ship broker's license is required.

(m) Fails to act in accordance with, or disregards, his or her fiduciary duty toward a principal.

(n) Violates any provisions of Section 708, 712, 714, 715, 716, 730, or 731, or the rules and regulations of the department implementing this article.

SEC. 5. Section 733 of the Harbors and Navigation Code is amended to read:

733. The department may deny an application or may suspend or revoke the license of a yacht broker or yacht salesperson who, within four years immediately preceding, has committed any of the following acts:

(a) Has procured a license under this article for himself or herself or another by fraud, misrepresentation, or deceit.

(b) Has been convicted of a felony or any crime involving moral turpitude.

(c) Has withheld information from the department that he or she at any time has been convicted of a felony or any crime involving moral turpitude.

(d) Knowingly authorizes, directs, connives, or aids in the publication, advertisement, distribution, or circulation of any material false statements or misrepresentation concerning his or her business or any transaction under this article.

(e) Has acted or conducted himself or herself in a manner that would warrant the denial of his or her application for a broker's or salesperson's license pursuant to Section 720.

SEC. 6. Section 739 of the Harbors and Navigation Code is amended to read:

739. Any person who violates any provision of this article, or any regulation adopted pursuant to this article, is liable for a penalty in an amount not less than one hundred dollars ($100) and not to exceed one thousand five hundred dollars ($1,500) for each separate violation. The penalties provided in this section are in addition to the remedies or penalties available under all other laws of this state.

Every civil or administrative action brought under this article at the request of the director shall be brought by the Attorney General in the name of the people of the State of California, in any court of competent jurisdiction, or through the Office of Administrative Hearings pursuant to Section 737, except that, when the civil action is to be filed in a small claims court, the director may bring the action.

The amount of penalty that is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon the implementation of the purposes and provisions of this article. Any sum that is recovered under this section shall be deposited in the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

CHAPTER 509

An act to amend Sections 8880.12 and 8880.56 of the Government Code, relating to the California State Lottery.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 8880.12 of the Government Code is amended to read:

8880.12. ''Lottery Game''

''Lottery Game'' means any procedure authorized by the commission whereby prizes are distributed among persons who have paid, or who have unconditionally agreed to pay, for tickets or shares which provide the opportunity to win those prizes.

SEC. 2. Section 8880.56 of the Government Code is amended to read:

8880.56. (a) Notwithstanding other provisions of law, the director may purchase or lease goods and services as are necessary for effectuating the purposes of this chapter. The director may not contract with any private party for the operation and administration of the California State Lottery, created by this chapter. However, this section does not preclude procurements which integrate functions such as game design, supply, advertising, and public relations. In all procurement decisions, the director shall, subject to the approval of the commission, award contracts to the responsible supplier submitting the lowest and best proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance, 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 and the objective of raising net revenues for the benefit of the public purpose described in this chapter.

(b) Notwithstanding any other provision of this chapter, the following shall apply to contracts or procurement by the lottery:

(1) To ensure the fullest competition, the commission shall adopt and publish competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than one hundred thousand dollars ($100,000). The competitive bidding procedures shall include, but not be limited to, requirements for submission of bids and accompanying documentation, guidelines for the use of requests for proposals, invitations to bid, or other methods of bidding, and a bid protest procedure. The director shall determine whether the goods or services subject to this paragraph are available through existing contracts or price schedules of the Department of General Services.

(2) The contracting standards, procedures, and rules contained in this subdivision shall also apply with respect to any subcontract involving an expenditure of more than one hundred thousand dollars ($100,000). The commission shall establish, as part of its bidding procedures for

general contracts, subcontracting guidelines that implement this requirement.

(3) The provisions of Article 1 (commencing with Section 11250) of Chapter 3 of Part 1 of Division 3 apply to the commission.

(4) The commission is subject to the Small Business Procurement and Contract Act, as provided in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3.

(5) In advertising or awarding any general contract for the procurement of goods and services exceeding five hundred thousand dollars ($500,000), the commission and the director shall require all bidders or contractors, or both, to include specific plans or arrangements to utilize subcontracts with socially and economically disadvantaged small business concerns. The subcontracting plans shall delineate the nature and extent of the services to be utilized, and those concerns or individuals identified for subcontracting if known.

It is the intention of the Legislature in enacting this section to establish as an objective of the utmost importance the advancement of business opportunities for these small business concerns in the private business activities created by the California State Lottery. In that regard, the commission and the director shall have an affirmative duty to achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs.

By July 1, 1986, the commission shall adopt proposal evaluation procedures, criteria, and contract terms which are consistent with the advancement of business opportunities for small business concerns in the private business activities created by the California State Lottery and which will achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs. The proposal evaluation procedures, criteria, and contract terms adopted shall be reported in writing to both houses of the Legislature on or before July 1, 1986.

For the purposes of this section, socially and economically disadvantaged persons include women, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities or any other natural persons found by the commission to be disadvantaged.

The commission shall report to the Legislature by July 1, 1987, and by each July 1 thereafter, on the level of participation of small

businesses, socially and economically disadvantaged businesses, and California businesses in all contracts awarded by the commission.

(6) The commission shall prepare and submit to the Legislature by October 1 of each year a report detailing the lottery's purchase of goods and services through the Department of General Services. The report shall also include a listing of contracts awarded for more than one hundred thousand dollars ($100,000), the name of the contractor, amount and term of the contract, and the basis upon which the contract was awarded.

The lottery shall fully comply with the requirements of paragraphs (2) to (5), inclusive, except that any function or role which is otherwise the responsibility of the Department of Finance or the Department of General Services shall instead, for purposes of this subdivision, be the sole responsibility of the lottery, which shall have the sole authority to perform that function or role.

SEC. 3. 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 510

An act to add Article 10.9 (commencing with Section 65601) to Chapter 3 of Division 1 of Title 7 of the Government Code, relating to water recycling.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Article 10.9 (commencing with Section 65601) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.9. Water Recycling in Landscaping Act

65601. This article shall be known and may be cited as the Water Recycling in Landscaping Act.

65602. The Legislature finds and declares all of the following:

(a) The waters of the state are of limited supply and are subject to ever-increasing demands.

(b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.

(c) It is the policy of the state to promote the efficient use of water through the development of water recycling facilities.

(d) Landscape design, installation, and maintenance can and should be water efficient.

(e) The use of potable domestic water for landscaped areas is considered a waste or unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available that meets the conditions described in Section 13550 of the Water Code.

65603. Unless the context requires otherwise, the definitions used in this section govern the construction of this article:

(a) ''Designated recycled water use area'' means areas within the boundaries of the local agency that can or may in the future be served with recycled water in lieu of potable water and are so designated by the local agency.

(b) ''Local agency'' means any city, county, or city and county.

(c) ''Recycled water producer'' means any local public or private entity that produces recycled water in accordance with the conditions described in Section 13550 of the Water Code.

65604. If a recycled water producer determines that within 10 years the recycled water producer will provide recycled water within the boundaries of a local agency that meets all of the conditions described in Section 13550 of the Water Code, the recycled water producer shall notify the local agency of that fact and shall identify in the notice the area that is eligible to receive the recycled water, and the necessary infrastructure that the recycled water producer or retail water supplier will provide to support delivery of the recycled water.

65605. (a) Within 180 days of receipt of notification from a recycled water producer pursuant to Section 65604, the local agency shall adopt and enforce a recycled water ordinance pursuant to this article.

(b) The ordinance shall include, but not be limited to, provisions that do all of the following:

(1) State that it is the policy of the local agency that recycled water determined to be available pursuant to Section 13550 of the Water Code shall be used for nonpotable uses within the designated recycled water use area set forth by the local agency when the local agency determines that there is not an alternative higher or better use for the recycled water, its use is economically justified, and its use is financially and technically feasible for projects under consideration by the local agency.

(2) Designate the areas within the boundaries of the local agency that can or may in the future use recycled water, including, but not limited to, existing urban areas in lieu of potable water.

(3) Establish general rules and regulations governing the use and distribution of recycled water in accordance with applicable laws and regulations.

(4) Establish that the use of the recycled water is determined to be available pursuant to Section 13550 of the Water Code in new industrial, commercial, or residential subdivisions located within the designated recycled water use areas for which a tentative map or parcel map is required pursuant to Section 66426. These provisions shall require a separate plumbing system to serve nonpotable uses in the common areas of the subdivision, including, but not limited to, golf courses, parks, greenbelts, landscaped streets, and landscaped medians. The separate plumbing system to serve nonpotable uses shall be independent of the plumbing system provided to serve domestic, residential, and other potable water uses in the subdivision.

(5) Require that recycled water service shall not commence within the designated recycled water use area in any service area of a private utility, as defined in Section 1502 of the Public Utilities Code, or to any service area of a public agency retail water supplier that is not a local agency, as defined in subdivision (b) of Section 65603, except in accordance with a written agreement between the recycled water producer and the private utility or public agency retail water supplier that shall be made available in a timely manner by the recycled water producer to the local agency adopting the ordinance pursuant to this article.

65606. The recycled water ordinance adopted by a local agency pursuant to Section 65605 shall not apply to either of the following:

(a) A tentative map as defined in Section 66424.5, or a development, as defined in Section 65927, that was approved by the local agency prior to the receipt of notification from a recycled water producer pursuant to Section 65604.

(b) A subdivision map application that is deemed complete pursuant to Section 65943 prior to the local agency's receipt of a notice from a recycled water producer pursuant to Section 65604.

65607. (a) This article shall not apply to any local agency that adopted a recycled water ordinance or other regulation requiring the use of recycled water in its jurisdiction prior to January 1, 2001.

(b) This article does not alter any rights, remedies, or obligations that may exist pursuant to Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code.

(c) This article does not alter any rights, remedies, or obligations that may exist pursuant to Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees,

or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 511

An act to amend Section 12209.6 of the Business and Professions Code, relating to parking meters.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Parking meter agencies and operators are encouraged to provide consumers with maximum value for payment made for parking space rental, and accuracy in time measurement is an important component of providing this value.

(b) Parking meter agencies and operators should take advantage of new technology, and are encouraged to enter into public-private partnerships for the acquisition, installation, and maintenance of parking control systems currently available in the marketplace.

SEC. 2. Section 12209.6 of the Business and Professions Code is amended to read:

12209.6. (a) A county sealer may test and certify the accuracy of all parking meters located in the county in which the sealer has jurisdiction, including, but not limited to, parking meters owned or operated by a city, county, or a city and county.

(b) If the county sealer determines that a specific parking meter is inaccurate, the sealer shall notify the owner or operator of the meter, may immediately close the meter, and any person may park a vehicle free of charge in the parking space to which the inaccurate meter corresponds until the owner or operator replaces or repairs the inaccurate parking meter.

(c) For purposes of this section, an ''inaccurate parking meter'' means a parking meter that provides less time than is paid for by a person using the metered parking space.

CHAPTER 512

An act to amend Sections 12015.3 and 12246 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 12015.3 of the Business and Professions Code is amended to read:

12015.3. (a) The sealer may levy a civil penalty against a person violating any provision of this division or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars ($1,000) for each violation. It is a complete defense to a criminal prosecution for a violation of any provision of this division or a regulation adopted pursuant to any provision of this division that the defendant has been assessed and has paid a civil penalty under this section for the same act or acts constituting the violation. Any civil penalty under this section shall be cumulative to civil remedies or penalties imposed under any other law.

(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing. The request shall be made within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the sealer's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the sealer may take the action proposed without a hearing.

(c) If the person upon whom the sealer levied a civil penalty requested and appeared at a hearing, the person may appeal the sealer's decision to the secretary within 30 days of the date of receiving a copy of the sealer's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, state the grounds for the appeal, and include a copy of the sealer's decision. The appellant shall file a copy of the appeal with the sealer at the same time it is filed with the secretary.

(2) The appellant and the sealer may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the secretary,

present the record of the hearing including written evidence that was submitted at the hearing and a written argument to the secretary stating grounds for affirming, modifying, or reversing the sealer's decision.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the sealer, and the secretary.

(5) The secretary shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the secretary finds substantial evidence in the record to support the sealer's decision, the secretary shall affirm the decision.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the secretary may affirm the sealer's decision, modify the sealer's decision by reducing or increasing the amount of the penalty levied so that it is within the secretary's guidelines for imposing civil penalties, or reverse the sealer's decision. Any civil penalty increased by the secretary shall not be higher than that proposed in the sealer's notice of proposed action given pursuant to subdivision (b). A copy of the secretary's decision shall be delivered or mailed to the appellant and the sealer.

(8) Any person who does not request a hearing pursuant to subdivision (b) may not file an appeal pursuant to this subdivision.

(9) Review of a decision of the secretary may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the appeal and review procedures provided in this section, the sealer, or his or her representative, may file a certified copy of a final decision of the sealer that directs the payment of a civil penalty and, if applicable, a copy of any decision of the secretary or his or her authorized representative rendered on an appeal from the sealer's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

(e) If the civil penalty is levied by the State Sealer, the revenues derived therefrom shall be deposited in the Department of Food and

Agriculture Fund and, upon appropriation, shall be used by the State Sealer to carry out his or her responsibilities under this division. If the civil penalty is levied by the county sealer, the revenues shall be deposited in the general fund of the county and, upon appropriation by the board of supervisors, shall be used by the county sealer to carry out his or her responsibilities under this division.

(f) This section does not apply to violations involving utility meters, or to violations involving the testing and inspection of utility meters, in mobilehome parks, recreational vehicle parks, or apartment complexes, where the owner of the park or complex owns and is responsible for the utility meters.

(g) Upon the written request of the Attorney General of California, any district attorney, or any city prosecutor or city attorney described in subdivision (a) of Section 17206, the State Sealer or the county sealer within their respective jurisdictions, shall provide all reports and records regarding any actions that occurred within the four months prior to the date of the written request in which civil penalties were levied pursuant to this section or liability for costs incurred are determined pursuant to Section 12015.5.

(h) 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 12246 of the Business and Professions Code is amended to read:

12246. This article 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.

CHAPTER 513

An act to amend Sections 2560.5, 2561.3, 2561.5, 2562, 2562.3, 2562.5, 2563, and 2564 of, to add Section 2565 to, and to repeal Sections 2563.5 and 2564.5 of, the Streets and Highways Code, relating to highways.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

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

(a) California's freeway service patrols are a critical element in the state's efforts to keep our freeways safe and operating efficiently.

(b) Freeway service patrols provide an effective freeway congestion relief program on the state highway system.

(c) Los Angeles County pioneered the state's first freeway service patrol program in 1991, and, since that time, 11 programs have been implemented as a partnership between the Department of Transportation, the Department of the California Highway Patrol, and local and regional entities.

(d) Freeway service patrols, composed of teams of specially trained tow truck drivers, patrol 1,220 miles of California's most congested freeways, offering stranded motorists help that is free of charge and includes services such as changing a flat tire, ''jump starting'' a dead battery, repairing hoses, refilling radiators, and providing a gallon of fuel or a tow to a predetermined safe location off the freeway.

(e) Since the state first implemented freeway service patrol programs on a demonstration basis in 1992, some 4.5 million motorists statewide have received assistance. Further, studies performed by the University of California at Berkeley's Institute for Transportation Studies, as required by the initial legislation, conclude that for every dollar invested in the program, the state receives from three dollars ($3) to five dollars ($5) back in benefits,including time savings.

(f) Accordingly, California's freeway service patrol programs, which were implemented initially as a demonstration program, merit permanent status as part of the state's overall program to keep California's highways safe and free of traffic congestion.

SEC. 2. Section 2560.5 of the Streets and Highways Code is amended to read:

2560.5. The purpose of this chapter is to provide for permanent implementation of a freeway service patrol system on traffic-congested urban freeways throughout the state, involving a cooperative effort between state and local agencies.

SEC. 3. Section 2561.3 of the Streets and Highways Code is amended to read:

2561.3. The freeway service patrol in any particular area shall be operated pursuant to a memorandum of understanding between the Department of the California Highway Patrol, the department, and the appropriate regional or local entity.

SEC. 4. Section 2561.5 of the Streets and Highways Code is amended to read:

2561.5. (a) Funding for the freeway service patrols established pursuant to this chapter shall be provided, upon annual appropriation, from the State Highway Account in the State Transportation Fund. In addition, the appropriate regional or local entity shall ensure that local resources are expended on freeway service patrols in an amount not less

than 25 percent of the amount provided from the State Highway Account.

(b) In locations where there already is a freeway service patrol, the department shall coordinate and integrate the funds appropriated pursuant to this section into the existing program. In the allocation of these funds, no local entity may be penalized for having an existing freeway service patrol program.

(c) No state funding may be released prior to the execution of the memorandum of understanding developed under Section 2561.3.

(d) No program funded under this chapter may supplant emergency response towing services provided by the department as of January 1, 1992.

(e) It is the intent of the Legislature that funding for programs funded under this chapter be consistent from year to year in order to facilitate the awarding of multiyear contracts between participating regional and local entities and providers of freeway patrol services.

SEC. 5. Section 2562 of the Streets and Highways Code is amended to read:

2562. Funding for a freeway service patrol in a participating area shall be based 25 percent on the number of urban freeway lane miles in the participating area to the total number of freeway lane miles in all the participating areas, 50 percent on the basis of the ratio of the population of the participating area to the total population of all the participating areas, and 25 percent on the basis of traffic congestion as ascertained by the department pursuant to the most recent Statewide Highway Traffic Congestion Monitoring Program.

SEC. 6. Section 2562.3 of the Streets and Highways Code is amended to read:

2562.3. In determining the annual funding allocation, regional or local entities shall apply to the department in accordance with program guidelines.

SEC. 7. Section 2562.5 of the Streets and Highways Code is amended to read:

2562.5. Each tow truck participating in a freeway service patrol shall bear a logo comprised of, at a minimum, a circle, a triangle, and a tow truck silhouette, with the words ''Freeway Service Patrol,'' which identifies the Department of the California Highway Patrol and the department, and, at the option of the entity, the participating regional or local entity. Participating regional or local entities may place an approved logo on participating tow trucks.

SEC. 8. Section 2563 of the Streets and Highways Code is amended to read:

2563. Tow truck drivers and employers participating in a freeway service patrol pursuant to this chapter are subject to the standards and

qualifications established under Article 3.3 (commencing with Section 2430) of Chapter 2 of Division 2 of the Vehicle Code.

SEC. 9. Section 2563.5 of the Streets and Highways Code is repealed.

SEC. 10. Section 2564 of the Streets and Highways Code is amended to read:

2564. Not more than 2 percent of the state funds appropriated for purposes of this chapter shall be used for administrative overhead expenses or purposes by state agencies. No state funds shall be used for administrative purposes by the participating local and regional entities.

SEC. 11. Section 2564.5 of the Streets and Highways Code is repealed.

SEC. 12. Section 2565 is added to the Streets and Highways Code, to read:

2565. The department, the Department of the California Highway Patrol, and participating regional and local entities shall develop and periodically update guidelines for program operations, as those guidelines and updates may be required.

CHAPTER 514

An act to amend Section 662 of the Public Resources Code, relating to mining.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 662 of the Public Resources Code is amended to read:

662. (a) One member of the board shall be a registered geologist with background and experience in mining geology; one member shall be a mining engineer with background and experience in mining minerals in California; one member shall have background and experience in groundwater hydrology, water quality, and rock chemistry; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a registered geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil

conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource conservation, development, and utilization; and one member shall not be required to have specialized experience.

(b) All members of the board shall represent the general public interest, but not more than one-third of the members at any one time may be currently employed by, or receive more than 25 percent of their annual income, not to exceed $25,000 a year per member, from an entity that owns or operates a mine in California. The representative of local government shall not be considered an employee of an entity that owns or operates a mine if the lead agency employing the representative owns or operates a mine. For purposes of this section, retirement or other benefits paid by a mining entity to an individual who is no longer employed by that entity are not considered to be compensation, if those benefits were earned prior to the date the individual terminated his or her employment with the entity.

(c) If a member of the board determines that he or she has a conflict of interest on a particular matter before the board pursuant to subdivision (b) or Section 663, he or she shall provide the clerk of the board with a brief written explanation of the basis for the conflict of interest, which shall become a part of the public record of the board. The written explanation shall be delivered prior to the time the matter to which it pertains is voted on by the board. This disclosure requirement is in addition to any other conflict-of-interest disclosure requirement imposed by law.

CHAPTER 515

An act to add Sections 2770.6, 2772.5, and 2772.6 to the Public Resources Code, relating to surface mining.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 2770.6 is added to the Public Resources Code, to read:

2770.6. (a) Whenever surface mining operations are proposed within the boundaries of the San Gabriel Basin Water Quality Authority that may penetrate the groundwater, and whenever proposed reclamation activities may impact groundwater quality, the lead agency reviewing an application to conduct surface mining operations, or reviewing an

application for the approval of a reclamation plan, shall notify and provide copies of the subject application to the appropriate California regional water quality control board, and any watermaster for the groundwater recharge basin. Notwithstanding any other provision of law, the appropriate California regional water quality control board may impose an administrative fee on the applicant to cover its costs associated with the review of, and preparation of, comments on the subject application, as required pursuant to this section.

(b) Each agency shall have 60 days to review and comment on the proposed surface mining operation described in subdivision (a) and the adoption of any reclamation plan therefor. Each agency shall comment on the existing groundwater quality and the potential impacts to water quality that may result from the mining operations and the proposed reclamation plan, and shall recommend methods and procedures to protect groundwater quality and prevent groundwater degradation. Each agency shall also comment on the proposed mining activities, including the conduct of excavation and backfilling operations in contact with groundwater, and the impact of any proposed alternative land uses on groundwater quality. When the proposed surface mining operations or reclamation plan will impact the groundwater, the lead agency shall not approve the reclamation plan without requiring actions to ensure the reasonable protection of the beneficial uses of groundwater and the prevention of nuisance. Each agency shall have 60 days to review and comment or until 60 days from the date of application, whichever occurs first.

(c) This section applies to activities otherwise subject to this chapter conducted within the boundaries of the San Gabriel Basin Water Quality Authority. To the extent of any conflict between this section and any other provision of this chapter, this section shall prevail.

SEC. 2. Section 2772.5 is added to the Public Resources Code, to read:

2772.5. (a) A reclamation plan by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands within the boundaries of the San Gabriel Basin Water Quality Authority, and who plans to conduct surface mining operations on those lands, in addition to the information required pursuant to subdivision (c) of Section 2772, shall include a description of any programs necessary to monitor the effects of mining and reclamation operations on air, water, and soil quality, on the surrounding area, backfill characteristics, geologic conditions, and slope stability, similar to the California Environmental Quality Act document for the reclamation project.

(b) This section applies to activities otherwise subject to this chapter conducted within the boundaries of the San Gabriel Basin Water Quality

Authority. To the extent of any conflict between this section and any other provision of this chapter, this section shall prevail.

SEC. 3. Section 2772.6 is added to the Public Resources Code, to read:

2772.6. (a) In addition to meeting the requirements of Section 2773.1, the amount of financial assurances required of a surface mining operation within the boundaries of the San Gabriel/Basin Water Quality Authority for any one year shall be in an amount not less than that required to ensure reclamation of the disturbed areas is completed in accordance with the approved reclamation plan.

(b) This section applies to activities otherwise subject to this chapter conducted within the boundaries of the San Gabriel Basin Water Quality Authority. To the extent of any conflict between this section and any other provision of this chapter, this section shall prevail.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution as a result of the unique circumstances affecting surface mining operations within the boundaries of the San Gabriel Basin Water Quality Authority.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 516

An act to add Chapter 8 (commencing with Section 36970) to Division 27 of the Public Resources Code, relating to ocean resources.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Chapter 8 (commencing with Section 36970) is added to Division 27 of the Public Resources Code, to read:

CHAPTER 8. THE CALIFORNIA OCEAN RESOURCES STEWARDSHIP ACT OF 2000

Article 1. General Provisions

36970. This chapter shall be known, and may be cited, as the California Ocean Resources Stewardship Act of 2000 (CORSA).

36971. The Legislature finds and declares all of the following:

(a) The Pacific Ocean and its rich and varied resources provide great environmental, economic, aesthetic, recreational, educational, and scientific benefits to the people of California and the nation. The state's ocean resources contribute greatly to the economy and the quality of life of its residents, and California's growing population increasingly lives, works, and recreates on or near the coast. Ocean and coast-dependent industries contributed over $17 billion to the state's economy and supported over 500,000 jobs in 1999, and ocean and coastal tourism and recreational activities, which are increasing rapidly in popularity and economic value, contributed nearly $10 billion to the state's economy. Port activity and ship building also contributed an additional $6 billion, and recreational and commercial fishing and marine aquaculture added nearly $1 billion to the state's economy. In addition, activities of the United States Department of the Navy that depend on continued access to California's coastal resources add a direct annual economic contribution of more than $19 billion.

(b) Much of the quality of life and economic vibrancy supported by the state's ocean resources depends on successful management of those resources, and successful management depends on an adequate understanding of the natural, ecological, oceanographic, and coastal processes and their interactions with varied human activities.

(c) The state is working to maintain and increase the benefits of its ocean resources to the public; a goal that increases the need for sound management and greater practical understanding of the state's ocean and coastal resources.

(d) Although California is making progress in ocean management efforts, unsolved existing challenges also point to the need for greater improvements in management and the basic information needed for sound management. Examples of existing challenges include depressed populations of many species that are the targets of state and federally managed fisheries, pollution that results in beach and fishery closures, dredging and dredge spoils disposal necessary to keep the state's ports competitive, and coastal erosion that threatens structures and reduces the quality of beaches.

(e) State and federal agencies with ocean and coastal resource management responsibility often lack basic information on which to

base decisions, and many management issues are broader than the mandates of individual agencies, and existing means for coordinating agency efforts need to be improved. The result can be ad hoc, short-term management decisions based on inadequate information.

(f) California has a wealth of outstanding public and private marine science institutions that have increased their commitments to excellence in applied ocean resource science. Approximately one hundred million dollars ($100,000,000) in current, recent, or planned marine science projects funded by the federal government, foundations, the University of California and California State University systems, and private institutions could be of great benefit to the state's coastal and ocean resource management agencies.

(g) The obstacles to collaborative efforts involving those institutions and agencies include all of the following:

(1) Inadequate coordination among marine science institutions.

(2) Inadequate guidance from management agencies about information needs for management.

(3) Important gaps in information, duplication of effort, missed opportunities, and unusable information due to the lack of standardized and coordinated information management techniques. The circumstances and needs identified in the findings in this section are among those recognized in this chapter and in the 1997 report prepared by the Resources Agency entitled ''California's Ocean Resources: An Agenda for the Future.'' This chapter is intended to address some of the basic objectives of that report.

36972. The Legislature further finds that it is the policy of the state to do all of the following:

(a) Ensure adequate coordination of ocean resources management science among state, regional, and federal agencies and marine science institutions.

(b) Ensure the most efficient and effective use of state resources devoted to ocean resource management science and encourage the contribution of federal and nongovernmental resources.

(c) Advance applied ocean science, graduate-level education, and technology development to meet current and future California ocean resource management needs.

36973. (a) No authority is established by this chapter, nor shall any of its purposes or provisions be used by any public or private agency or person, to delay or deny any existing or future project or activity.

(b) No authority is established by this chapter to supersede current state agency statutory authority.

Article 2. Definitions

36979. For purposes of this chapter, the following terms shall have the following meanings:

(a) ''Ocean resources'' means all living and nonliving resources found in the Pacific Ocean and its contiguous saline or brackish bays and estuaries.

(b) ''Trust'' means the California Ocean Trust authorized by Section 36990.

(c) ''Trustees'' means the trustees of the trust.

Article 3. Ocean Science Coordination

36980. The Secretary of the Resources Agency shall report to the Legislature on or before September 1, 2002, on the steps taken to ensure adequate coordination of ocean resource management science among state, regional, and federal agencies and marine science institutions. The purposes of this coordination shall be to provide adequate information to marine science institutions about the information needs of agencies and to maximize the usefulness of ongoing and proposed ocean science projects to ocean resource management agencies.

Article 4. California Ocean Trust

36990. (a) The Secretary of the Resources Agency may enter into an agreement with an existing nonprofit corporation with broad experience as the trustee of public funds, court-ordered mitigation funds, or other funds used to assist public agencies in carrying out their responsibilities to establish a nongovernmental trust, to be known as the California Ocean Trust.

(b) The purposes of the trust shall be all of the following:

(1) To seek funds for California ocean resource science projects, emphasizing the development of new funding sources.

(2) To fund California ocean resource science projects that help fulfill the missions of the state's ocean resource management agencies.

(3) To encourage coordinated, multiagency, multiinstitution approaches to ocean resource science.

(4) To encourage graduate education programs in management-oriented ocean resource science in public and private universities and colleges in California.

(5) To encourage new technologies that reduce the cost, increase the amount, or improve the quality of ocean resource management information.

(6) To promote more effective coordination of California ocean resource science useful to management agencies.

36991. The trust shall be subject to the Nonprofit Public Benefit Corporation Law, Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. To the extent of any conflict between this chapter and the Nonprofit Public Benefit Corporation Law, this division shall prevail.

36992. The trust shall have 10 trustees, who shall be appointed as follows:

(a) The Secretary of the Resources Agency shall appoint the following trustees, who shall serve at the pleasure of the secretary:

(1) One trustee who shall represent the Resources Agency and the departments and commissions within the Resources Agency with ocean resource management responsibilities and who may be an employee of the state.

(2) Three trustees from a list of candidates submitted jointly by the President of the University of California and the Chancellor of the California State University, who shall be chosen for their broad knowledge of ocean resource management and science. At least one of the three trustees shall not be an employee or on the faculty of the University of California or California State University.

(3) Two trustees who shall be representatives of the public selected primarily for their experience as trustees or directors of for-profit or nonprofit corporations.

(4) Two trustees from nominees submitted by coast and ocean interest groups including, but not limited to, interest groups representing sport fishing, commercial fishing, coast and ocean recreation and tourism, marine conservation, and ocean-dependent industries. In making the appointments pursuant to this paragraph, the factors to be considered shall include the nominees' acceptability to a range of coast and ocean interests, and their experience as trustees or directors of for profit or nonprofit corporations.

(b) The Secretary for Environmental Protection shall appoint one trustee, who shall serve at the pleasure of the secretary, and who shall have broad knowledge of water quality concerns as they relate to ocean resource management.

(c) The Director of Finance shall appoint one trustee, who shall serve at the pleasure of the director.

(d) To the extent feasible, the trustees appointed to the trust pursuant to subdivisions (a), (b), and (c) shall balance, and reflect the breadth of, public interests concerned with ocean resources.

36993. (a) Any person who might reasonably be expected at some time to derive a direct financial benefit from the activities of the trust shall be ineligible to serve as a trustee.

(b) Subject to the approval of the Secretary for Resources, the trustees shall adopt definitions and rules for the trust with respect to indirect conflicts of interest.

(c) All trustees shall serve without compensation. However, trustees may be reimbursed by the trust for reasonable expenses.

36994. (a) The trust shall do all of the following:

(1) Expend funds only for the purposes of the trust enumerated in Section 36990 and as further restricted by the sources of the trust's funding.

(2) Make written findings for funds committed for projects, indicating how the projects further the purposes of the trust enumerated in Section 36990.

(3) Require the recipient of funds to keep records necessary to disclose whether the funds were used for the purposes specified by the trust.

(4) Invest and manage the funds of the trust in accordance with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(5) The trust shall report in writing annually to the Legislature and to the Chair of the Joint Committee on Fisheries and Aquaculture. The annual report shall include the most recent financial audit of the trust and the written findings required pursuant to paragraph (2). The activities of the trust for any financial year may be audited by the Bureau of State Audits.

(b) The trustees shall ensure that the trust, individual trustees acting on behalf of the trust and employees or agents of the trust do not engage in lobbying or contribute to, or otherwise support, any political party, candidate, or ballot issue.

(c) This chapter does not expand the authority of the trust to contract for professional services beyond the authority to contract for those services in Section 19130 of the Government Code.

36995. (a) The trust may seek the assistance of advisers, form advisory committees, or otherwise consult with knowledgeable individuals in regard to the business of the trust.

(b) Advisers shall serve without compensation. However, advisers may be reimbursed by the trust for reasonable expenses.

CHAPTER 517

An act to amend Sections 15432, 15438, 15438.5, 15439, and 15440 of, and to repeal Sections 15438.1, 15461, and 15463 of, the Government Code, and to amend Section 127300 of the Health and

Safety Code, relating to health facility financing, and making an appropriation therefor.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) ''Act'' means the California Health Facilities Financing Authority Act.

(b) ''Authority'' means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) ''Cost,'' as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

(d) ''Health facility'' means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities, adult day

care facilities, as defined under paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code, which provide services to developmentally disabled or mentally impaired persons, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), and includes all of the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so

licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. ''Elderly,'' for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, ''child'' means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative which is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing which is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility which is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, which provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility which, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work-activity program, as specified in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code.

(16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.

''Health facility'' includes a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

''Health facility'' includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses or interns residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

''Health facility'' does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) ''Participating health institution'' means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part.

(f) ''Project'' means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding or financing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. ''Project'' may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) ''Revenue bond'' means any bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.

(h) ''Working capital'' means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

SEC. 2. Section 15438 of the Government Code is amended to read:

15438. 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. 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.

SEC. 2.5. Section 15438 of the Government Code is amended to read:

15438. 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 . 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) Award grants to any eligible clinic pursuant to Section 15438.6.

SEC. 3. Section 15438.1 of the Government Code is repealed.

SEC. 4. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion of a multilevel facility, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

(d) If a health facility seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with

respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a health facility which performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the health facility, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, which jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty; or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

On or before January 1, 1992, the authority shall report to the Legislature regarding the implementation of this subdivision. The report shall provide information on the number of applications for financing sought under this subdivision, the number of applications approved and denied under this subdivision, and a brief summary of the reason for any denial of an application submitted under this subdivision.

(e) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.

SEC. 5. Section 15439 of the Government Code is amended to read:

15439. (a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, or any particular secured or unsecured loan made pursuant to subdivision (i) or (j) of Section 15438, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to the priorities which may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to the cost of loans provided by the authority pursuant to subdivisions (i) and (j) of Section 15438, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as such bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the State Treasurer to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be

subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

SEC. 6. Section 15440 of the Government Code is amended to read:

15440. All expenses of the authority incurred in carrying out the provisions of this part shall be payable solely from funds provided pursuant to this part, and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this part.

SEC. 7. Section 15461 of the Government Code is repealed.

SEC. 8. Section 15463 of the Government Code is repealed.

SEC. 9. Section 127300 of the Health and Safety Code is amended to read:

127300. Notwithstanding any other provision of law, on and after January 1, 1987, the requirement that health facilities and specialty clinics apply for, and obtain, certificates of need or certificates of exemption is indefinitely suspended.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 15438 of the Government Code proposed by both this bill and AB 2875. 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 15438 of the Government Code, and (3) this bill is enacted after AB 2875, in which case Section 2 of this bill shall not become operative.

CHAPTER 518

An act to amend Sections 5806, 5811, 5814, and 5814.5 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) In 1999, the Legislature recognized the longstanding problem of the underfunded community mental health care system and the consequences of severely mentally ill adults not getting treatment resulting in these adults being homeless, incarcerated in jails, and hospitalized.

(2) The Legislature began to address this problem by funding three pilot programs in Los Angeles, Sacramento, and Stanislaus Counties to provide extended community mental health services and outreach to mentally ill adults who are homeless or at risk of homelessness.

(3) The legislation, Chapter 617 of the Statutes of 1999 (AB 34), required the State Department of Mental Health to evaluate these programs and determine if they were effective in reducing the risk of continued homelessness, incarceration, or hospitalization.

(4) The response to the offer of outreach services to severely mentally ill persons has been overwhelming, with more than 1,000 additional people now stabilized and in treatment with a greatly reduced risk of further homelessness, incarcerations, or hospitalizations.

(5) Based upon this success and the dramatic and unfortunate consequences of two decades of not providing adequate community mental health services, it is now time for the state to make a significant effort to substantially increase these programs and realize a measurable reduction in homelessness of people with mental illness by dramatically expanding these programs.

(b) It is the intent of the Legislature to enact legislation that will do all of the following:

(1) Provide funds in the 2000-01 fiscal year to allow the three counties that currently conduct programs to continue successful program expansions, based upon remaining unmet needs.

(2) Permit, in addition to the initial demonstration counties, counties that have or can develop adult system of care programs to have an opportunity to participate in these programs, based upon unmet needs, successful existing programs, and each county's capacity to increase services.

SEC. 2. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies,

and family, client, ethnic and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences.

(3) Provisions for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that would still be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(b) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and follow through of services, and necessary advocacy to ensure each client

receives those services which are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions which affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 3. Section 5811 of the Welfare and Institutions Code is amended to read:

5811. The State Department of Mental Health shall provide participating counties all of the following:

(a) Request for proposals, application guidelines, and format, and coordination and oversight of the selection process as described in Article 2 (commencing with Section 5803).

(b) Contracts with each state funded county stipulating the approved budget, performance outcomes, and scope of work.

(c) Training, consultation, and technical assistance for county applicants.

SEC. 4. Section 5814 of the Welfare and Institutions Code is amended to read:

5814. (a) (1) This part shall be implemented only to the extent that funds are appropriated for purposes of this part. To the extent that funds are made available, the first priority shall go to maintain funding for the existing programs that meet adult system of care contract goals. The next priority for funding shall be given to counties with a high incidence of persons who are severely mentally ill and homeless or at risk of homelessness, and meet the criteria developed pursuant to paragraphs (3) and (4).

(2) The director shall establish a methodology for awarding grants under this part consistent with the legislative intent expressed in Section 5802, and in consultation with the advisory committee established in this subdivision.

(3) The director shall establish an advisory committee for the purpose of providing advice regarding the development of criteria for the award of grants, and the identification of specific performance measures for evaluating the effectiveness of grants. The committee shall review evaluation reports and make findings on evidence based on best practices and recommendations for grant conditions. The committee shall include, but not be limited to, representatives from state, county, and community veterans' services and disabled veterans outreach programs, supportive housing and other housing assistance programs, law enforcement, county mental health and private providers of local mental health services and mental health outreach services, the Board of Corrections, the State Department of Alcohol and Drug Programs, local substance abuse services providers, the Department of Rehabilitation, providers of local employment services, the State Department of Social Services, the Department of Housing and Community Development, a service provider to transition youth, the United Advocates for Children of California, the California Mental Health Advocates for Children and Youth, the Mental Health Association of California, the California Alliance for the Mentally Ill, the California Network of Mental Health Clients, the Mental Health Planning Council, and other appropriate entities.

(4) The criteria for the award of grants shall include, but not be limited to, all of the following:

(A) A description of a comprehensive strategic plan for providing outreach, prevention, intervention, and evaluation in a cost appropriate manner corresponding to the criteria specified in subdivision (c).

(B) A description of the local population to be served, ability to administer an effective service program, and the degree to which local

agencies and advocates will support and collaborate with program efforts.

(C) A description of efforts to maximize the use of other state, federal, and local funds or services that can support and enhance the effectiveness of these programs.

(b) In each year in which additional funding is provided by the State Budget the department shall establish programs that offer individual counties sufficient funds to comprehensively serve severely mentally ill adults who are homeless, recently released from a county jail or the state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided to them and who are severely mentally ill adults. For purposes of this subdivision, ''severely mentally ill adults'' are those individuals described in subdivision (b) of Section 5600.3. In consultation with the advisory committee established pursuant to paragraph (3) of subdivision (a), the department shall report to the Legislature on or before May 1 of each year in which additional funding is provided, and shall evaluate, at a minimum, the effectiveness of the strategies in providing successful outreach and reducing homelessness, involvement with local law enforcement, and other measures identified by the department. The evaluation shall include, as much of the following as available information permits:

(1) The number of persons served, and of those, the number who are able to maintain housing, and the number who receive extensive community mental health services.

(2) The number of persons with contacts with local law enforcement and the extent to which local and state incarceration has been reduced or avoided.

(3) The number of persons participating in employment service programs including competitive employment.

(4) The number of persons contacted in outreach efforts who appear to be severely mentally ill, as described in Section 5600.3, who have refused treatment after completion of all applicable outreach measures.

(5) The amount of hospitalization that has been reduced or avoided.

(6) The extent to which veterans identified through these programs' outreach are receiving federally funded veterans' services for which they are eligible.

(c) Each project shall include outreach and service grants in accordance with a contract between the state and approved counties that reflects the number of anticipated contacts with people who are homeless or at risk of homelessness, and the number of those who are severely mentally ill and who are likely to be successfully referred for treatment and will remain in treatment as necessary.

(d) All counties that receive funding shall be subject to specific terms and conditions of oversight and training which shall be developed by the department, in consultation with the advisory committee.

(e) (1) As used in this part, ''receiving extensive mental health services'' means having a personal services coordinator, as described in subdivision (b) of Section 5806, and having an individual personal service plan, as described in subdivision (c) of Section 5806.

(2) The funding provided pursuant to this part shall be sufficient to provide mental health services, medically necessary medications to treat severe mental illnesses, alcohol and drug services, transportation, supportive housing and other housing assistance, vocational rehabilitation and supported employment services, money management assistance for accessing other health care and obtaining federal income and housing support, accessing veterans' services, stipends, and other incentives to attract and retain sufficient numbers of qualified professionals as necessary to provide the necessary levels of these services. These grants shall, however, pay for only that portion of the costs of those services not otherwise provided by federal funds or other state funds.

(3) Methods used by counties to contract for services pursuant to paragraph (2) shall promote prompt and flexible use of funds, consistent with the scope of services for which the county has contracted with each provider.

(f) Contracts awarded pursuant to this part shall be exempt from the Public Contract Code and the state administrative manual and shall not be subject to the approval of the Department of General Services.

(g) Notwithstanding any other provision of law, funds awarded to counties pursuant to this part and Part 4 (commencing with Section 5850) shall not require a local match in funds.

SEC. 5. Section 5814.5 of the Welfare and Institutions Code is amended to read:

5814.5. (a) (1) In any year in which funds are appropriated for this purpose through the annual Budget Act, counties funded under this part in the 1999–2000 fiscal year are eligible for funding to continue their programs if they have successfully demonstrated the effectiveness of their grants received in that year and to expand their programs if they also demonstrate significant continued unmet need and capacity for expansion without compromising quality or effectiveness of care.

(2) In any year in which funds are appropriated for this purpose through the annual Budget Act, other counties or portions of counties, or cities that operate independent public mental health programs pursuant to Section 5615 of the Welfare and Institutions Code, are eligible for funding to establish programs if a county or eligible city demonstrates that it can provide comprehensive services, as set forth in

this part, to a substantial number of adults who are severely mentally ill, as defined in Section 5600.3, and are homeless or recently released from the county jail or who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided.

(b) (1) Counties eligible for funding pursuant to subdivision (a) shall be those that have or can develop integrated adult service programs that meet the criteria for an adult system of care, as set forth in Section 5806, and that have, or can develop, integrated forensic programs with similar characteristics for parolees and those recently released from county jail who meet the target population requirements of Section 5600.3 and are at risk of incarceration unless the services are provided. Local enrollment for integrated adult service programs and for integrated forensic programs funded pursuant to subdivision (a) shall adhere to all conditions set forth by the department, including the total number of clients to be enrolled, the providers to which clients are enrolled and the maximum cost for each provider, the maximum number of clients to be served at any one time, the outreach and screening process used to identify enrollees, and the total cost of the program. Local enrollment of each individual for integrated forensic programs shall be subject to the approval of the county mental health director or his or her designee.

(2) Each county shall ensure that funds provided by these grants are used to expand existing integrated service programs that meet the criteria of adults system of care to provide new services in accordance with the purpose for which they were appropriated and allocated, and that none of these funds shall be used to supplant existing services to severely mentally ill adults. In order to ensure that this requirement is met, the department shall develop methods and contractual requirements, as it determines necessary. At a minimum, these assurances shall include that state and federal requirements regarding tracking of funds are met and that patient records are maintained in a manner that protects privacy and confidentiality, as required under federal and state law.

(c) Each county selected to receive a grant pursuant to this section shall provide data as the department may require, that demonstrates the outcomes of these adult system of care programs, shall specify the additional numbers of severely mentally ill adults to whom they will provide comprehensive services for each million dollars of additional funding that may be awarded through either an integrated adult service grant or an integrated forensic grant, and shall agree to provide services in accordance with Section 5806. Each county's plan shall identify and include sufficient funding to provide housing for the individuals to be served, and shall ensure that any hospitalization of individuals participating in the program are coordinated with the provision of other mental health services provided under the program.

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 maintain the pilot programs and funding for the homeless mentally ill as indicated within this act without disruption, it is necessary that this act go into effect immediately.

CHAPTER 519

An act to amend Section 6924 of the Family Code, and to amend Section 123115 of the Health and Safety Code, relating to health.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 6924 of the Family Code is amended to read:

6924. (a) As used in this section:

(1) ''Mental health treatment or counseling services'' means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

(A) A governmental agency.

(B) A person or agency having a contract with a governmental agency to provide the services.

(C) An agency that receives funding from community united funds.

(D) A runaway house or crisis resolution center.

(E) A professional person, as defined in paragraph (2).

(2) ''Professional person'' means any of the following:

(A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.

(B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C) A licensed educational psychologist as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code.

(D) A credentialed school psychologist as described in Section 49424 of the Education Code.

(E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(F) The chief administrator of an agency referred to in paragraph (1) or (3).

(G) A marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code.

(3) ''Residential shelter services'' means any of the following:

(A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make his or her best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the

participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

SEC. 2. Section 123115 of the Health and Safety Code is amended to read:

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of

mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

CHAPTER 520

An act to amend Sections 5851, 5852.5, 5855.5, 5857, 5859, 5860, 5863, 5865, 5866, 5869, and 5880 of, and to add Sections 5856.2 , 5865.1, and 5865.3 to, the Welfare and Institutions Code, relating to child care.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 5851 of the Welfare and Institutions Code is amended to read:

5851. (a) The Legislature finds and declares that there is no comprehensive county interagency system throughout California for the delivery of mental health services to seriously emotionally and behaviorally disturbed children and their families. Specific problems to be addressed include the following:

(1) The population of children which should receive highest priority for services has not been defined.

(2) Clear and objective client outcome goals for children receiving services have not been specified.

(3) Although seriously emotionally and behaviorally disturbed children usually have multiple disabilities, the many different state and county agencies, particularly education, social services, juvenile justice,

health, and mental health agencies, with shared responsibility for these individuals, do not always collaborate to develop and deliver integrated and cost-effective programs.

(4) A range of community-based treatment, case management, and interagency system components required by children with serious emotional disturbances has not been identified and implemented.

(5) Service delivery standards that ensure culturally competent care in the most appropriate, least restrictive environment have not been specified and required.

(6) The mental health system lacks accountability and methods to measure progress towards client outcome goals and cost-effectiveness. There are also no requirements for other state and county agencies to collect or share relevant data necessary for the mental health system to conduct this evaluation.

(b) The Legislature further finds and declares that the model developed in Ventura County beginning in the 1984–85 fiscal year through the implementation of Chapter 1474 of the Statutes of 1984 and expanded to the Counties of Santa Cruz, San Mateo, and Riverside in the 1989–90 fiscal year pursuant to Chapter 1361 of the Statutes of 1987, provides a comprehensive, interagency system of care for seriously emotionally and behaviorally disturbed children and their families and has successfully met the performance outcomes required by the Legislature. The Legislature finds that this accountability for outcome is a defining characteristic of a system of care as developed under this part. It finds that the system established in these four counties can be expanded statewide to provide greater benefit to children with serious emotional and behavioral disturbances at a lower cost to the taxpayers. It finds further that substantial savings to the state and these four counties accrue annually, as documented by the independent evaluator provided under this part. Of the amount continuing to be saved by the state in its share of out-of-home placement costs and special education costs for those counties and others currently funded by this part, a portion is hereby reinvested to expand and maintain statewide the system of care for children with serious emotional and behavioral disturbances.

(c) Therefore, using the Ventura County model guidelines, it is the intent of the Legislature to accomplish the following:

(1) To phase in the system of care for children with serious emotional and behavioral problems developed under this part to all counties within the state.

(2) To require that 100 percent of the new funds appropriated under this part be dedicated to the targeted population as defined in Sections 5856 and 5856.2. To this end, it is the intent of the Legislature that families of eligible children be involved in county program planning and

design and, in all cases, be involved in the development of individual child treatment plans.

(3) To expand interagency collaboration and shared responsibility for seriously emotionally and behaviorally disturbed children in order to do the following:

(A) Enable children to remain at home with their families whenever possible.

(B) Enable children placed in foster care for their protection to remain with a foster family in their community as long as separation from their natural family is determined necessary by the juvenile court.

(C) Enable special education pupils to attend public school and make academic progress.

(D) Enable juvenile offenders to decrease delinquent behavior.

(E) Enable children requiring out-of-home placement in licensed residential group homes or psychiatric hospitals to receive that care in as close proximity as possible to the child's usual residence.

(F) Separately identify and categorize funding for these services.

(4) To increase accountability by expanding the number of counties with a performance contract that requires measures of client outcome and cost avoidance.

(d) It is the intent of the Legislature that the outcomes prescribed by this section shall be achieved regardless of the cultural or ethnic origin of the seriously emotionally and behaviorally disturbed children and their families.

SEC. 2. Section 5852.5 of the Welfare and Institutions Code is amended to read:

5852.5. The department shall review those counties that have been awarded funds to implement a comprehensive system for the delivery of mental health services to children with serious emotional disturbance and to their families or foster families to determine compliance with either of the following:

(a) The total estimated cost avoidance in all of the following categories shall equal or exceed the applications for funding award moneys:

(1) Group home costs paid by Aid to Families with Dependent Children-Foster Care (AFDC-FC) program.

(2) Children and adolescent state hospital and acute inpatient programs.

(3) Nonpublic school residential placement costs.

(4) Juvenile justice reincarcerations.

(5) Other short- and long-term savings in public funds resulting from the applications for funding award moneys.

(b) If the department determines that the total cost avoidance listed in subdivision (a) does not equal or exceed applications for funding

award amounts, the department shall determine that the county that has been awarded funding shall achieve substantial compliance with all of the following goals:

(1) Total cost avoidance in the categories listed in subdivision (a) to exceed 50 percent of the applications for funding award moneys.

(2) A 20-percent reduction in out-of-county ordered placements of juvenile justice wards and social service dependents.

(3) A statistically significant reduction in the rate of recidivism by juvenile offenders.

(4) A 25-percent reduction in the rate of state hospitalization of minors from placements of special education pupils.

(5) A 10-percent reduction in out-of-county nonpublic school residential placements of special education pupils.

(6) Allow at least 50 percent of children at risk of imminent placement served by the intensive in-home crisis treatment programs, which are wholly or partially funded by applications for funding award moneys, to remain at home at least six months.

(7) Statistically significant improvement in school attendance and academic performance of seriously emotionally disturbed special education pupils treated in day treatment programs which are wholly or partially funded by applications for funding award moneys.

(8) Statistically significant increases in services provided in nonclinic settings among agencies.

(9) Increase in ethnic minority and gender access to services proportionate to the percentage of these groups in the county's school-age population.

SEC. 3. Section 5855.5 of the Welfare and Institutions Code is amended to read:

5855.5. (a) Projects funded pursuant to Part 4 (commencing with Section 5850) of Division 5, as added by Chapter 89 of the Statutes of 1991, shall continue under the terms of this part.

(b) The department shall negotiate with each participating county to establish appropriate evaluation measures for the county's children's system of care program after the initial three-year implementation funding period as established in Section 5854. The department shall, on an annual basis, negotiate a performance contract with each county electing to continue its children's system of care program. The annual performance contract shall be consistent county to county, and shall include, but not be limited to, a scope of work plan consistent with the provisions of this part and shall contain a budget that has sufficient detail to meet the requirements of the department.

SEC. 4. Section 5856.2 is added to the Welfare and Institutions Code, to read:

5856.2. (a) Eligible children shall include seriously disturbed children who meet the requirements of Section 5856 and who are referred by collaborating programs, including wrap-around programs (Chapter 4 (commencing with Section 18250) of Part 6 of Division 9), Family Preservation programs (Part 4.4 (commencing with Section 16600) of Division 9), Juvenile Crime Enforcement and Accountability Challenge Grant programs (Article 18.7 (commencing with Section 749.2) of Chapter 2 of Part 1 of Division 1), programs serving children with dual diagnosis including substance abuse or whose emotional disturbance is related to family substance abuse, and children whose families are enrolled in CalWORKs (Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9).

(b) Counties shall ensure, within available resources, that programs are designed to serve young children from zero to five years of age, inclusive, their families, and adolescents in transition from 15 to 21 years of age, inclusive.

SEC. 5. Section 5857 of the Welfare and Institutions Code is amended to read:

5857. (a) The State Department of Mental Health shall issue a request for applications for funding for new children's system of care programs to nonparticipating counties in each year that additional funds are provided for statewide expansion pursuant to this part.

(b) Applications shall be submitted to the department by a county mental health department with joint approval of collaborating local agencies including, but not limited to, special education, juvenile court, probation, child protective services agencies, the board of supervisors, and the mental health advisory board.

(c) Program staff from the department shall review all applications for funding for compliance with all requirements of law and the application guidelines established by the department.

(d) The department may accept letters of intent from a county in lieu of an application if moneys are not available to the county, to affirm commitment by the county to participate in the request for applications for funding process when moneys become available. Upon approval of an application by the director, a county shall be funded for an initial three-year contract period as described in Section 5854 and annually thereafter, consistent with the provisions of this part. If a county is complying with the provisions of this part, the department shall assure that the county receives an annual allocation consistent with departmental guidelines for full funding, as resources are made available.

SEC. 6. Section 5859 of the Welfare and Institutions Code is amended to read:

5859. If applications are deficient and not ready for approval, department program staff shall provide specific written descriptions of areas of deficiency to counties and provide, to the extent feasible, any requested training, consultation, and technical assistance to assist the applicant county to achieve necessary compliance and department approval.

SEC. 7. Section 5860 of the Welfare and Institutions Code is amended to read:

5860. (a) Final selection of county proposals shall be subject to the amount of funding approved for expansion of services under this part.

(b) Counties shall use funds distributed under this part 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 described in this part. The State Department of Mental Health shall audit and monitor the use of these funds to ensure that the funds are used solely in support of the children's system of care program and in accordance with the performance contract described in subdivision (c). 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 programs.

(c) The department shall enter into annual performance contracts with the selected counties and enter into training and consultation contracts as necessary to fulfill its obligations under this part. These annual performance contracts shall be in addition to the county mental health services performance contracts submitted to the department under Section 5650. Any changes in the staffing patterns or protocols, or both, approved in the original program proposal shall be identified and justified in these annual performance contracts. Annual performance contracts filed by counties operating the program as of January 1, 2001, shall, if approved by the department, serve as the baseline contract for purposes of this subdivision. The contracts shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.

SEC. 8. Section 5863 of the Welfare and Institutions Code is amended to read:

5863. In addition to the requirements of Section 5862, each county program proposal shall contain all of the following:

(a) Methods and protocols for the county mental health department to identify and screen the eligible target population children. These protocols shall be developed with collaborative partners and shall ensure that eligible children can be referred from all collaborating agencies.

(b) Measurable system performance goals for client outcome and cost avoidance. Outcomes shall be made available to collaborating partners and used for program improvement.

(c) Methods to achieve interagency collaboration by all publicly funded agencies serving children experiencing emotional disturbances.

(d) Appropriate written interagency protocols and agreements with all other programs in the county that serve similar populations of children. Agreements shall exist with wrap-around programs (Chapter 4 (commencing with Section 18250) of Part 6 of Division 9), Family Preservation programs (Part 4.4 (commencing with Section 16600) of Division 9), Juvenile Crime Enforcement and Accountability Challenge Grant programs (Article 18.7 (commencing with Section 749.2) of Chapter 2 of Part 1 of Division 1), programs serving children with a dual diagnosis including substance abuse or whose emotional disturbance is related to family substance abuse, and programs serving families enrolled in CalWORKs (Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9).

(e) A description of case management services for the target population. Each county program proposal shall include protocols developed in the county for case management designed to provide assessment, linkage, case planning, monitoring, and client advocacy to facilitate the provision of appropriate services for the child and family in the least restrictive environment as close to home as possible.

(f) Mental health services that enable a child to remain in his or her usual family setting and that offer an appropriate alternative to out-of-home placement.

(g) Methods to conduct joint interagency placement screening of target population children prior to out-of-home placement.

(h) Identification of the number and level of county evaluation staff and the resources necessary to meet requirements established by the State Department of Mental Health to measure client and cost outcome and other system performance measures.

(i) A budget specifying all new and currently funded mental health expenditures provided as part of the proposed system of care. The department shall establish reporting requirements for direct and indirect administrative overhead, to be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs. In no case shall administrative costs exceed those of existing county mental health programs and services. Expenditures for evaluation staff and resources shall not be considered administrative costs for this purpose.

(j) Any requirements for interagency collaboration, agreements, or protocols contained in this section shall not diminish requirements for

the confidentiality of medical information or information maintained by a county agency or department.

SEC. 9. Section 5865 of the Welfare and Institutions Code is amended to read:

5865. Each county shall have in place, with qualified mental health personnel, all of the following within three years of funding by the state:

(a) A comprehensive, interagency system of care that serves the target population as defined in Section 5856.

(b) A method to screen and identify children in the target population. County mental health staff shall consult with the representatives from special education, social services, and juvenile justice agencies, the mental health advisory board, family advocacy groups, and others as necessary to help identify all of the persons in the target populations, including persons from ethnic minority cultures which may require outreach for identification.

(c) A defined mental health case management system designed to facilitate the outcome goals for children in the target population.

(d) A defined range of mental health services and program standards that involve interagency collaboration and ensure appropriate service delivery in the least restrictive environment with community-based alternatives to out-of-home placement.

(e) A defined mechanism to ensure that services are culturally competent.

(f) A defined mechanism to ensure that services are child-centered and family-focused, with parent participation in planning and delivery of services.

(g) A method to show measurable improvement in individual and family functional status for children enrolled in the system of care.

(h) A method to measure and report cost avoidance and client outcomes for the target population which includes, but is not limited to, state hospital utilization, group home utilization, nonpublic school residential placement, school attendance and performance, and recidivism in the juvenile justice system.

(i) A plan to ensure that system of care services are planned to complement and coordinate with services provided under the federal Early and Periodic Screening, Diagnosis and Treatment services (Section 1396d(a)(4)(B) of Title 42 of the United States Code), including foster children served under Section 5867.5, where those services are medically necessary but children do not meet the requirements of Section 5600.3.

(j) A plan to ensure that system of care services are planned to complement and coordinate with services provided to CalWORKs (Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9) recipients whose families receive mental health treatment services.

(k) A defined partnership between the children's system of care program and family members of children who have been or are currently being served in the county mental health system. This partnership shall include family member involvement in ongoing discussions and decisions regarding policy development, program administration, service development, and service delivery.

SEC. 10. Section 5865.1 is added to the Welfare and Institutions Code, to read:

5865.1. When a county system of care serves children 15 to 21 years of age, the following structures and services shall, to the extent possible, be available, and if not available, the county plan shall identify a timeline for the development of these services:

(a) Collaborative agreements with schools, community colleges, independent living programs, child welfare services, job training agencies, CalWORKs providers, regional center services, and transportation and recreation services as needed.

(b) Collaborative teams involving the youth and two or more agencies to develop a transition plan that identifies needs and resources required to successfully transition to independent living as an adult.

(c) Service plans that identify the needs of the youth in the areas of employment, job training, health care, education, counseling, socialization, housing, and independent living skills, to be provided by any of the collaborative agencies and access points for the youth identified.

(d) Assistance with identifying the means for health insurance and educational linkages when the young person is more than 18 years of age.

(e) Specific plans for the young adult to identify individuals and community services that can provide support during the transition to 21 years of age.

(f) Assurances that goals for young adults are individual, identified by the youth, and developmentally appropriate.

(g) Any requirements for interagency collaboration, agreements, or protocols contained in this section shall not diminish requirements for the confidentiality of medical information or information maintained by a county agency or department.

SEC. 11. Section 5865.3 is added to the Welfare and Institutions Code, to read:

5865.3. When a county system of care services children, zero to five years of age, the following structures and services shall be available, and when not available, the county plan shall identify a timeline for the development of these services:

(a) Collaborative agreements with public health systems, regional center services, child care programs, CalWORKs providers, drug and

alcohol treatment programs, child welfare services, and other agencies that may identify children and families at risk of mental health problems that affect young children.

(b) Outreach protocols that can assist parents to identify child behaviors that may be addressed early to prevent mental or emotional disorders and assure normal child development.

(c) Identification of trained specialists that can assist the parents of very young children at risk for emotional, social, or developmental problems with treatment.

(d) Performance measures that ensure that services to families of very young children are individual, identified by the family, and developmentally appropriate.

SEC. 12. Section 5866 of the Welfare and Institutions Code is amended to read:

5866. (a) Counties shall develop a method to encourage interagency collaboration with shared responsibility for services and the client and cost outcome goals.

(b) The local mental health director shall form or facilitate the formation of a county interagency policy and planning committee. The members of the council shall include, but not be limited to, family members of children who have been or are currently being served in the county mental health system and the leaders of participating local government agencies, to include a member of the board of supervisors, a juvenile court judge, the district attorney, the public defender, the county counsel, the superintendent of county schools, the public social services director, the chief probation officer, and the mental health director.

(c) The duties of the committee shall include, but not be limited to, all of the following:

(1) Identifying those agencies that have a significant joint responsibility for the target population and ensuring collaboration on countywide planning and policy.

(2) Identifying gaps in services to members of the target population, developing policies to ensure service effectiveness and continuity, and setting priorities for interagency services.

(3) Implementing public and private collaborative programs whenever possible to better serve the target population.

(d) The local mental health director shall form or facilitate the formation of a countywide interagency case management council whose function shall be to coordinate resources to specific target population children who are using the services of more than one agency concurrently. The members of this council shall include, but not be limited to, representatives from the local special education, juvenile probation, children's social services, and mental health services

agencies, with necessary authority to commit resources from their agency to an interagency service plan for a child and family. The roles, responsibilities, and operation of these councils shall be specified in written interagency agreements or memoranda of understanding, or both.

(e) The local mental health director shall develop written interagency agreements or memoranda of understanding with the agencies listed in this subdivision, as necessary. Written interagency agreements or memoranda shall specify jointly provided or integrated services, staff tasks and responsibilities, facility and supply commitments, budget considerations, and linkage and referral services. The agreements shall be reviewed and updated annually.

(f) The agreements required by subdivision (e) may be established with any of the following:

(1) Special education local planning area consortiums.

(2) The court juvenile probation department.

(3) The county child protective services agency.

(4) The county public health department.

(5) The county department of drug and alcohol services.

(6) Other local public or private agencies serving children.

SEC. 13. Section 5869 of the Welfare and Institutions Code is amended to read:

5869. The department shall provide participating counties with all of the following:

(a) Applications for funding guidelines and format, and coordination and oversight of the selection process as described in Article 4 (commencing with Section 5857).

(b) Contracts with each state funded county specifying the approved budget, performance outcomes, and a scope of work plan for each year of participation in the children's system of care program.

(c) A contract with an independent evaluator for the purpose of measuring performance outcomes and providing technical assistance to the state and counties related to system evaluation.

(d) Training, consultation, and technical assistance for county applicants and participants, either directly or through contract.

SEC. 14. Section 5880 of the Welfare and Institutions Code is amended to read:

5880. For each selected county the department shall define and establish client and cost outcome and other system performance goals, and negotiate the expected levels of attainment for each year of participation. Expected levels of attainment shall include a breakdown by ethnic origin and shall be identified by a county in its proposal. These goals shall include, but not be limited to, both of the following:

(a) Client improvement and cost avoidance outcome measures, as follows:

(1) To reduce the number of child months in group homes, residential placements pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and state hospital placements.

(2) To reduce the cost of AFDC-FC group home care, residential placements as described in paragraph (1), and state hospital utilization, by an amount which equals at least 50 percent of the third year project cost. Cost avoidance shall be based on data comparisons of statewide average expenditure and population.

(3) To increase school attendance for pupils in targeted programs.

(4) To increase the grade level equivalent of pupils in targeted programs from admission to discharge.

(5) To reduce the rate of recidivism incurred for wards in targeted juvenile justice programs.

(6) To show measurable improvement in individual and family functional status for a representative sample of children enrolled in the system of care.

(7) To achieve statistically significant increases in services provided in nonclinic settings among agencies.

(8) To increase ethnic minority and gender access to services proportionate to the percentage of these groups in the county's school-age population.

(b) System development and operation measures, as follows:

(1) To provide an integrated system of care that includes multiagency programs and joint case planning, to children who are seriously emotionally and behaviorally disturbed as defined in Section 5856.

(2) To identify and assess children who comprise the target population in the county evidenced by a roster which contains all children receiving mental health case management and treatment services. This roster shall include necessary standardized and uniform identifying information and demographics about the children served.

(3) To develop and maintain individualized service plans that will facilitate interagency service delivery in the least restrictive environment.

(4) To develop or provide access to a range of intensive services that will meet individualized service plan needs. These services shall include, but not be limited to, case management, expanded treatment services at schoolsites, local juvenile corrections facilities, and local foster homes, and flexible services.

(5) To ensure the development and operation of the interagency policy council and the interagency case management council.

(6) To provide culturally competent programs that recognize and address the unique needs of ethnic populations in relation to equal access, program design and operation, and program evaluation.

(7) To develop parent education and support groups, and linkages with parents to ensure their involvement in the planning process and the delivery of services.

(8) To provide a system of evaluation that develops outcome criteria and which will measure performance, including client outcome and cost avoidance.

(9) To gather, manage, and report data in accordance with the requirements of the state funded outcome evaluation.

SEC. 15. This act shall be known, and may be cited, as the Cathie Wright Children's Mental Health Services Act.

CHAPTER 521

An act to amend Sections 22352 and 40802 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 22352 of the Vehicle Code, as amended by Section 1 of Chapter 421 of the Statutes of 1997, is amended to read:

22352. (a) The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(1) Fifteen miles per hour:

(A) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(B) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop

signs or yield right-of-way signs or controlled by official traffic control signals.

(C) On any alley.

(2) Twenty-five miles per hour:

(A) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(B) When approaching or passing a school building or the grounds thereof, contiguous to a highway and posted with a standard ''SCHOOL'' warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching or passing any school grounds which are not separated from the highway by a fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard ''SCHOOL'' warning sign. For purposes of this subparagraph, standard ''SCHOOL'' warning signs may be placed at any distance up to 500 feet away from school grounds.

(C) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard ''SENIOR'' warning sign. A local authority is not required to erect any sign pursuant to this paragraph until donations from private sources covering those costs are received and the local agency makes a determination that the proposed signing should be implemented. A local authority may, however, utilize any other funds available to it to pay for the erection of those signs.

(3) Thirty-five miles per hour on any highway, other than a state highway, in any moderate density residential district, as defined in subdivision (b) of Section 22352.1, when posted with a sign giving notice of that speed limit, unless a different speed is determined by local authority under procedures set forth in this code.

(b) This section shall remain in effect only until March 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted on or before March 1, 2001, deletes or extends that date.

SEC. 2. Section 22352 of the Vehicle Code, as added by Section 2 of Chapter 421 of the statutes of 1997, is amended to read:

22352. (a) The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(1) Fifteen miles per hour:

(A) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing

where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(B) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(C) On any alley.

(2) Twenty-five miles per hour:

(A) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(B) When approaching or passing a school building or the grounds thereof, contiguous to a highway and posted with a standard ''SCHOOL'' warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching or passing any school grounds which are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children and the highway is posted with a standard ''SCHOOL'' warning sign. For purposes of this subparagraph, standard ''SCHOOL'' warning signs may be placed at any distance up to 500 feet away from school grounds.

(C) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard ''SENIOR'' warning sign. A local authority is not required to erect any sign pursuant to this paragraph until donations from private sources covering those costs are received and the local agency makes a determination that the proposed signing should be implemented. A local authority may, however, utilize any other funds available to it to pay for the erection of those signs.

(b) This section shall become operative on March 1, 2001.

SEC. 3. Section 40802 of the Vehicle Code is amended to read:

40802. (a) A ''speed trap'' is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under subparagraph (A) of paragraph (2) of subdivision (a) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed

limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, or school zone.

(b) (1) For purposes of this section, a local street or road is defined by the latest functional usage and federal-aid system maps submitted to the federal Highway Administration, except that when these maps have not been submitted, or when the street or road is not shown on the maps, a ''local street or road'' means a street or road that primarily provides access to abutting residential property and meets the following three conditions:

(A) Roadway width of not more than 40 feet.

(B) Not more than one-half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.

(C) Not more than one traffic lane in each direction.

(2) For purposes of this section ''school zone'' means that area approaching or passing a school building or the grounds thereof that is contiguous to a highway and on which is posted a standard ''SCHOOL'' warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. ''School zone'' also includes the area approaching or passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children if that highway is posted with a standard ''SCHOOL'' warning sign.

(c) (1) When all of the following criteria are met, paragraph (2) of this subdivision shall be applicable and subdivision (a) shall not be applicable:

(A) When radar is used, the arresting officer has successfully completed a radar operator course of not less than 24 hours on the use of police traffic radar, and the course was approved and certified by the Commission on Peace Officer Standards and Training.

(B) When laser or any other electronic device is used to measure the speed of moving objects, the arresting officer has successfully completed the training required in subparagraph (A) and an additional training course of not less than two hours approved and certified by the Commission on Peace Officer Standards and Training.

(C) (i) The prosecution proved that the arresting officer complied with subparagraphs (A) and (B) and that an engineering and traffic survey has been conducted in accordance with subparagraph (B) of paragraph (2). The prosecution proved that, prior to the officer issuing the notice to appear, the arresting officer established that the radar, laser,

or other electronic device conformed to the requirements of subparagraph (D).

(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.

(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Traffic Highway Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.

(2) A ''speed trap'' is either of the following:

(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under subparagraph (A) of paragraph (2) of subdivision (a) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:

(I) Except as specified in subclause (II), seven years.

(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 10 years.

(ii) This subparagraph does not apply to a local street, road, or school zone.

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.

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CHAPTER 522

An act to amend Sections 11003.5, 11018.1, and 11018.10 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 11003.5 of the Business and Professions Code is amended to read:

11003.5. (a) A ''time-share project'' is one in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A ''time-share estate'' is a right of occupancy in a time-share project which is coupled with an estate in the real property.

(c) A ''time-share use'' is a license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property.

(d) An ''exchange program'' is any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among purchasers of time-share interests or other property interests. An ''exchange program'' does not include the assignment of the right to use and occupy accommodations and facilities to purchasers of time-share interests pursuant to a reservation system. Any method, arrangement, or procedure that otherwise meets this definition, wherein the purchaser's total contractual financial obligation exceeds three thousand dollars ($3,000) per time-share interest shall be regulated as a multisite time-share project and shall be subject to the provisions of this article.

(e) An ''incidental benefit'' is an accommodation, product, service, discount, or other benefit, other than an exchange program, which is offered to a prospective purchaser of a time-share interest prior to the end of the rescission period set forth in Section 11024, the continuing availability of which for the use and enjoyment of owners of time-share interests in the time-share project is limited to a term of not more than five years.

(f) A ''multisite time-share project'' is any method, arrangement, or procedure, with respect to which a purchaser obtains, by any means, a recurring right to use and occupy accommodations or facilities in a time-share project consisting of more than one component site, only

through use of a reservation system, on a nonpriority basis. The term does not include an exchange program wherein the purchaser's total contractual financial obligation does not exceed three thousand dollars ($3,000) per time-share interest or a single-site time-share project.

(g) A "reservation system" is the method, arrangement, or procedure by which a purchaser of a time-share interest, (1) in order to reserve the use and occupancy of any accommodation or facility of a multisite time-share project or qualified resort vacation club for one or more use periods is required to compete with other owners of time-share interests in that multisite time-share project or qualified resort vacation club or (2) in order to reserve the use and occupancy of any accommodation or facility of a component site associated with a single-site time-share project is required to compete with other owners of time-share interests in those component sites, regardless of whether that reservation system is operated and maintained by (A) the person responsible for the operation and administration of that time-share project, (B) an exchange company, or (C) any other person. In the event that an owner of a time-share interest is required to use an exchange program as the owner's principal means of obtaining the right to use and occupy the accommodations and facilities of any time-share project, that arrangement shall be a reservation system.

(h) (1) A "single-site time-share project" is a time-share project consisting of a single geographic site wherein a purchaser of a time-share interest in that site receives a recurring right to reserve, on a priority basis, the use or occupancy of accommodations and facilities at that site. A single-site time-share project may be associated with other time-share projects, or other accommodations under a contractual or membership program through a reservation system.

(2) (A) A single-site time-share project shall not be deemed to be a multisite time-share project solely on the basis of the required use of a reservation system. If use of the reservation system is mandatory, the agreement for affiliation of the single-site time-share project shall provide for an initial term of not more than five years, and may further provide for automatic term renewals for additional successive terms of five years, unless at a duly noticed meeting of the membership of the association, or pursuant to an action without a meeting taken in accordance with subdivisions (a), (b), (c), and (d) of Section 7513 of the Corporations Code, a motion to terminate the reservation system affiliation agreement is approved by the membership pursuant to subparagraphs (B), (C), and (D).

(B) A motion on the question of termination of a reservation system affiliation agreement may be initiated by any person specified in subdivision (e) of Section 7510 of the Corporations Code, and shall be

considered by the membership not more than 120 and not less than 30 days prior to expiration of its term.

(C) The quorum for any meeting of the membership to consider the termination of a reservation system affiliation agreement shall be not more than 30 percent of the voting power of the association residing in members other than the subdivider. The vote necessary to terminate the reservation system affiliation agreement in an action without a meeting or at a meeting at which a quorum is present by ballot, in person, or by proxy shall be the greater of (i) 25 percent of the voting power of the association residing in members other than the subdivider, or (ii) a majority of the voting power of the association voting at a meeting or in an action without a meeting by ballot, in person or by proxy, residing in members other than the subdivider.

(D) Notwithstanding subdivision (a) of Section 7513 of the Corporations Code, an action without a meeting on the question of termination of a reservation system affiliation agreement may be taken even if prohibited by the association's articles or bylaws.

(E) The cost assessed to a time-share owner or to an association of time-share owners for the reservation system that is more than 10 percent greater than the reservation system assessment for the immediately preceding fiscal year may not be levied without the vote or written assent of the same percentage of the voting power of the association set forth in subparagraph (C).

SEC. 2. Section 11018.1 of the Business and Professions Code is amended to read:

11018.1. (a) A copy of the public report of the commissioner, when issued, shall be given to the prospective purchaser by the owner, subdivider or agent prior to the execution of a binding contract or agreement for the sale or lease of any lot or parcel in a subdivision. The requirement of this section extends to lots or parcels offered by the subdivider after repossession. A receipt shall be taken from the prospective purchaser in a form and manner as set forth in regulations of the Real Estate Commissioner.

(b) A copy of the public report shall be given by the owner, subdivider or agent at any time, upon oral or written request, to any member of the public. A copy of the public report and a statement advising that a copy of the public report may be obtained from the owner, subdivider or agent at any time, upon oral or written request, shall be posted in a conspicuous place at any office where sales or leases or offers to sell or lease lots within the subdivision are regularly made.

(c) At the same time that a public report is required to be given by the owner, subdivider, or agent pursuant to subdivision (a) with respect to a common interest development, as defined, in subdivision (c) of Section

1351 of the Civil Code, the owner, subdivider, or agent shall give the prospective purchaser a copy of the following statement:

''COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

The project described in the attached Subdivision Public Report is known as a common-interest development. Read the public report carefully for more information about the type of development. The development includes common areas and facilities which will be owned or operated by an owners' association. Purchase of a lot or unit automatically entitles and obligates you as a member of the association and, in most cases, includes a beneficial interest in the areas and facilities. Since membership in the association is mandatory, you should be aware of the following information before you purchase:

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.

In order to provide funds for operation and maintenance of the common facilities, the association will levy assessments against your lot or unit. If you are delinquent in the payment of assessments, the association may enforce payment through court proceedings or your lot or unit may be liened and sold through the exercise of a power of sale. The anticipated income and expenses of the association, including the amount that you may expect to pay through assessments, are outlined in the proposed budget. Ask to see a copy of the budget if the subdivider has not already made it available for your examination.

A homeowner association provides a vehicle for the ownership and use of recreational and other common facilities which were designed to attract you to buy in this development. The association also provides a means to accomplish architectural control and to provide a base for homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest development should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the board. In short, ''they'' in a common interest development is ''you.'' Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote

of the members of the association which can have a significant impact upon the quality of life for association members.

Until there is a sufficient number of purchasers of lots or units in a common interest development to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

When contemplating the purchase of a dwelling in a common interest development, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common interest development is very much like governing a small community . . . the management can serve you well, but you will have to work for its success.''

Failure to provide the statement in accordance with this subdivision shall not be deemed a violation subject to Section 10185.

(d) (1) The commissioner may include a disclosure statement in a permit or public report for a single-site time-share project associated with other component resorts through a reservation system pertaining to the effect of reservation systems on the purchase of interests in those projects.

(2) Notwithstanding paragraph (1), the commissioner may prepare, for each single-site time-share project, a separate disclosure statement relating to the effect of the reservation system on the purchase of an interest in that project.

(3) The commissioner shall develop and use a standardized form for the disclosure permitted pursuant to paragraph (2).

(4) This statement shall be in 10-point bold typeface and given to and personally signed by the subdivider or the subdivider's agent and prospective purchaser as soon as practical prior to the execution of a binding contract or agreement.

SEC. 3. Section 11018.10 of the Business and Professions Code is amended to read:

11018.10. No person shall sell or lease, or offer for sale or lease in this state any interest in a multisite time-share project without first obtaining a public report covering each component site from the Real Estate Commissioner. For purposes of this section, the sale of an interest in a single-site time-share project coupled with a representation that a

purchaser shall obtain a guaranteed right to use and occupy accommodations or facilities at more than one geographic site, shall be deemed to be the sale of an interest in a multisite time-share project. The required use of a reservation system in itself shall not be deemed to guarantee a right to use or occupy accommodations or facilities at more than the site where the interest is purchased.

CHAPTER 523

An act to amend Section 509 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 509 of the Streets and Highways Code is amended to read:

509. (a) Route 209 is from Point Loma to Route 5 in San Diego.

(b) (1) The commission may relinquish Route 209 to the City of San Diego, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately following the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, Route 209 shall cease to be a state highway.

CHAPTER 524

An act to amend Sections 4461, 4463, 5007, 22511.55, and 22511.59 of, and to add Section 1825 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. It is the intent of the Legislature that the Department of Motor Vehicles do all of the following:

(a) In cooperation with the Medical Board of California, the Department of Rehabilitation, and the Department of Aging, undertake necessary measures to strengthen the disabled person or disabled veteran distinguishing placard application and certification processes and review existing policies and procedures governing the investigation of placard misuse and fraud.

(b) Update disabled person or disabled veteran distinguishing placard forms and program publications to ensure that applicants are aware of their rights and responsibilities with respect to the proper use of those placards and the penalties imposed for fraudulently obtaining or misusing placards.

(c) Update its driver handbook publications and driver tests to ensure that the public is provided adequate information as to the appropriate use of designated parking spaces for the exclusive use of vehicles that display special identification plates or placards and the penalties imposed for violations of those provisions.

(d) Conduct education outreach programs in concert with the disability community, senior organizations, and medical providers, in order to inform persons of the disabled person or disabled veteran distinguishing placard application and medical certification processes and the relating statutes, policies, and procedures governing placard misuse and fraud.

SEC. 1.5. Section 1825 is added to the Vehicle Code, to read:

1825. (a) The department may conduct an annual, random audit of applications submitted and processed pursuant to Section 22511.55 or subdivision (b) or (c) of Section 22511.59 to verify the authenticity of the certificates and information submitted in support of those applications.

(b) The audit provisions of subdivision (a) only apply to those applications that were initially submitted to the department after January 1, 2001.

SEC. 2. Section 4461 of the Vehicle Code is amended to read:

4461. (a) No person may lend any certificate of ownership, registration card, license plate, special plate, validation tab, or permit issued to him or her if the person desiring to borrow it would not be entitled to its use, nor may any person knowingly permit its use by one not entitled to it.

(b) No person to whom a disabled person placard has been issued may lend the placard to any other person, nor may any disabled person knowingly permit the use for parking purposes of the placard or identification license plate issued pursuant to Section 5007 by one not entitled to it. A person to whom a disabled person placard has been issued may permit another person to use the placard only while in the presence or reasonable proximity of the disabled person for the purpose

of transporting the disabled person. A violation of this subdivision is a misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(c) Except for the purpose of transporting disabled persons as specified in subdivision (b), no person may display any disabled person placard that was not issued to him or her or that has been canceled or revoked pursuant to Section 22511.6. A violation of this subdivision is a misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) Notwithstanding subdivisions (a), (b), and (c), no person using a vehicle displaying a special identification license plate issued to another pursuant to Section 5007 may park in those parking stalls or spaces designated for disabled persons pursuant to Section 22511.7 or 22511.8, unless transporting a disabled person. A violation of this subdivision is a misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(e) For the purposes of subdivisions (b) and (c), ''disabled person placard'' means a placard issued pursuant to Section 22511.55 or 22511.59.

SEC. 3. Section 4463 of the Vehicle Code is amended to read:

4463. (a) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(1) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license, license plate, device comparable to that issued pursuant to Section 4853, special plate, or permit provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies the document, device, or plate with intent to represent it as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership or other document evidencing ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged,

counterfeit, or false certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit.

(2) Utters, publishes, passes, or attempts to pass, as true and genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing it to be false, altered, forged, or counterfeited.

(b) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended:

(1) Forges, counterfeits, or falsifies any disabled person placard or any comparable placard relating to parking privileges for disabled persons provided for by any foreign jurisdiction, or forges, counterfeits, or falsifies any disabled person placard with intent to represent it as issued by the department.

(2) Passes, or attempts to pass, as true and genuine, any false, forged, or counterfeit disabled person placard knowing it to be false, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit disabled person placard.

(c) Every person who, with fraudulent intent, displays or causes or permits to be displayed any forged, counterfeit, or false disabled person placard, is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended.

(d) For purposes of subdivision (b) or (c), ''disabled person placard'' means a placard issued pursuant to Section 22511.55 or 22511.59.

SEC. 4. Section 5007 of the Vehicle Code is amended to read:

5007. (a) The department shall, upon application and without additional fees, issue a special identification license plate or plates to a disabled person or disabled veteran, pursuant to procedures adopted by the department.

(b) The special identification plates issued to a disabled person or disabled veteran shall run in a regular numerical series which shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the ''wheelchair symbol'' shall be depicted on each plate.

(c) (1) Prior to issuing any disabled person or disabled veteran a special identification license plate, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician or surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(2) The physician or other person who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(d) The special identification license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

SEC. 5. Section 22511.55 of the Vehicle Code is amended to read:

22511.55. (a) (1) Any disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special identification license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department, shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the ''wheelchair symbol.'' The department shall incorporate instructions for the lawful use of a placard, and a summary of the penalties for the unlawful use of a placard, into the identification card issued to the placard owner.

(2) (A) The department may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the department on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

(B) As used in this section, ''year'' means the period between the inclusive dates of July 1 through June 30.

(C) Prior to the end of each year, the department shall, for the most current three years available, compare its record of disability placards issued against the records of the Bureau of Vital Statistics of the State Department of Health Services, or its successor, and withhold any renewal notices that otherwise would have been sent, for any placard holders identified as deceased.

(3) The fee for an original application or renewal application is six dollars ($6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b) (1) Prior to issuing any disabled person or disabled veteran an original distinguishing placard, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician or surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist. The physician or person certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician or other person who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(3) The department shall maintain in its records all information on an applicant's certification of permanent disability and shall make that information available to eligible law enforcement or parking control agencies upon a request pursuant to Section 22511.58.

(c) (1) Any person who has been issued a distinguishing placard pursuant to subdivision (a) may apply to the department for a substitute placard without recertification of eligibility, if that placard has been lost or stolen.

(2) The fee for a substitute placard issued pursuant to paragraph (1) is six dollars ($6).

(d) The distinguishing placard shall be returned to the department not later than 60 days after the death of the disabled person or disabled veteran to whom the placard was issued.

SEC. 6. Section 22511.59 of the Vehicle Code is amended to read:

22511.59. (a) Upon receipt of the applications and documents required by subdivisions (b), (c), or (d), the department shall issue a temporary distinguishing placard bearing the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the ''wheelchair symbol.'' During the period for which it is valid, the temporary distinguishing placard may be used for the parking purposes described in Section 22511.5 in the same manner as a distinguishing placard issued pursuant to Section 22511.55.

(b) (1) Any person who is temporarily disabled for a period of not more than six months may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the submission of a certificate signed by a physician or surgeon, as described in subdivision (b) of Section 22511.55, substantiating the temporary disability and stating the date upon which the disability is expected to terminate.

(3) The physician or other person who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(4) A placard issued pursuant to this subdivision shall expire not later than 180 days from the date of issuance or upon the expected termination date of the disability, as stated on the certificate required by paragraph (2), whichever is less.

(c) (1) Any disabled person or disabled veteran who is not a resident of this state and plans to travel within the state may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require certification of the disability, as described in subdivision (b) of Section 22511.55.

(3) The physician or other person who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(4) A placard issued pursuant to this subdivision shall expire not later than 90 days from the date of issuance.

(d) (1) Any disabled person or disabled veteran who has been issued either a distinguishing placard pursuant to Section 22511.55 or special identification license plates pursuant to Section 5007, but not both, may

apply to the department for the issuance of the temporary distinguishing placard for the purpose of travel described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the applicant to submit either the number identifying the distinguishing placard issued pursuant to Section 22511.55 or the number on the special identification license plates.

(3) A placard issued pursuant to this subdivision shall expire not later than 30 days from the date of issuance.

(e) The fee for a placard issued pursuant to this section is six dollars ($6).

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 525

An act to add Section 2717 to the Penal Code, relating to prisoners.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 2717 is added to the Penal Code, to read:

2717. The Department of Corrections shall require prisoners who are working outside the prison grounds in road cleanup crews pursuant to Article 4 (commencing with Section 2760) or fire crews pursuant to Article 5 (commencing with Section 2780) to wear distinctive clothing for identification purposes.

CHAPTER 526

An act to add and repeal Section 130241.5 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 130241.5 is added to the Public Utilities Code, to read:

130241.5. (a) Notwithstanding any other provision of law, all bids for construction work submitted to the Orange County Transportation Authority or the Santa Clara Valley Transportation Authority may be presented by one of the following methods:

(1) Under sealed cover and accompanied by one of the following forms of bidder's security:

(A) Cash.

(B) A cashier's check made payable to the applicable authority.

(C) A certified check made payable to the applicable authority.

(D) A bidder's bond executed by an admitted surety insurer made payable to the authority.

(2) By means of electronic bidding through the Internet by procedures established by the applicable authority and accompanied by forms of security as determined adequate by the applicable authority.

(b) Upon an award to the lowest responsible bidder, the security of each unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the applicable authority beyond 60 days from the time the award is made.

(c) Nothing in this section requires a bidder to submit a bid electronically or authorizes either of the authorities to require that all bids be submitted electronically.

(d) On or before January 1, 2003, the California Research Bureau, after consultation with each of the authorities, shall prepare and submit to the Legislature a separate report with regard to each authority on the effectiveness of the electronic bidding process authorized by this subdivision. Each report shall include, but not be limited to, any impact of electronic bidding on the efficiency of the procurement process, and any cost savings gained as a result of electronic bidding. Each report shall recommend whether or not the electronic bidding authorized by this subdivision should be made permanent for the subject authority, and whether it would be effective if implemented on a statewide basis.

(e) Nothing in this section prohibits each of the authorities from participating in other electronic bidding programs developed by the state that allow participation by its political subdivisions.

(f) 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.

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CHAPTER 527

An act to amend Sections 4 and 5 of Chapter 317 of the Statutes of 1913, relating to City of Richmond tidelands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. As used in this act:

(a) ''City'' means the City of Richmond, a municipal corporation of the State of California, in Contra Costa County.

(b) ''Granted lands trust'' means the statutory trust created by the grant of tidelands to the City of Richmond in Chapter 317 of the Statutes of 1913.

(c) ''Public trust'' means the public trust for commerce, navigation, and fisheries.

(d) ''Redevelopment agency'' means the Richmond Redevelopment Agency, a public body, corporate and politic.

(e) ''Richmond Harbor Development Area'' means those lands being a portion of Lots 18, 19, 30, and 31 Section 24, and a portion of Lots 2 and 3, Section 25, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, as shown on the map entitled ''Map No. 1 of Salt Marsh and Tidelands'' filed June 11, 1917, Rack Map No. 9, in the office of the Recorder of Contra Costa County, California, more particularly described as follows: The Remainder Parcel and Parcel H as shown on Parcel Map MS 753-98 filed December 29, 1998, in Book 176 of Parcel Maps, Page 11, Contra Costa County Records.

(f) ''Surplus property authority'' means the Surplus Property Authority of the City of Richmond, a surplus property authority created pursuant to the Municipal Federal Surplus Property Law of the State of California.

(g) ''Tideland Survey Number Eight'' means those lands being a portion of Sections 24 and 25, Township 1 North, Range 5 West, Mount Diablo Base and Meridian described in the patent recorded in Book 1 of Patents, Page 57, January 20, 1868, Contra Costa County Records.

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

(1) Certain of the tide and submerged lands within Tideland Survey Number Eight and the Richmond Harbor Development Area, both filled and unfilled, have been authorized to be, and have been, laid off and sold to private parties pursuant to various acts, including an 1863 statute entitled ''An Act to Provide for the Sale of certain Lands belonging to the State'' (Ch. 397, Stats. 1863) and an 1868 statute entitled ''An Act

to Survey and Dispose of Certain Salt Marsh and Tidelands belonging to the State of California'' (Ch. 543, Stats. 1867–8), as amended.

(2) Certain of the tidelands within Tideland Survey Number Eight and the Richmond Harbor Development Area were authorized to be, and were, granted to the city subject to the public trust and certain other restrictions, by Chapter 317 of the Statutes of 1913.

(3) In 1916, the city and certain private claimants of tide and submerged lands entered a land title settlement agreement in an effort to resolve disputed title to tide and submerged lands, including lands within Tideland Survey Number Eight and the Richmond Harbor Development Area. The principal object of the 1916 agreement was to remove obstacles that prevented the implementation of a program of harbor development in furtherance of the city's 1913 grant. Pursuant to the 1916 agreement, the private parties conveyed to the city tide and submerged lands that had been claimed to be in private ownership and that were needed by the city for the planned program of harbor development. The 1916 agreement further provided, regarding certain other privately claimed lands, that it was the parties' intention that the private parties' claimed title to the lands be confirmed. Thereafter, bulkheads were built, channels dredged, fill placed, streets dedicated, and harbor facilities built in reliance on the plan embodied in the 1916 agreement. Properties that were not conveyed to the city were subsequently conveyed by the private parties to others, also in consequence of the 1916 agreement.

(4) On one of the parcels not conveyed to the city, Ford Motor Company constructed, in 1931, an automobile assembly building, which has since been listed on the National Register of Historic Places. A portion of the Ford Assembly Building was built on pilings over water, and cargo vessels were used in connection with the operations at the Ford Assembly Building. The Ford Assembly Building has been idle for many years and was severely damaged during the 1989 Loma Prieta earthquake. There is now a plan for adaptive reuse of the Ford Assembly Building, most of which sits on filled land that at one time was tide and submerged land. These plans include provision for public access along the waterfront perimeter of the Ford Assembly Building, as well as commercial recreation uses on the portion of the plant adjacent to the water. The access plans are part of an overall public access plan for the entirety of the Richmond Harbor.

(5) There is uncertainty concerning the validity and the geographic extent of title to the parcel upon which the Ford Assembly Building is built and other adjacent and nearby parcels within Tideland Survey Number Eight. There is also uncertainty concerning whether this property is subject to the public trust or other encumbrances that may have arisen because the lands were once sovereign lands of the state. The

state contends that a portion of the property was not conveyed by it either to private parties or to the city, and that other portions, assuming that they were legally conveyed, are held today subject to the public trust. The city contends that it or certain other public or private entities hold those disputed areas in fee simple, free of the public trust or any other encumbrances. It is in the public interest that this dispute be resolved in a manner that furthers public trust purposes.

(6) These disputes limit the potential development of the Richmond Harbor Development Area and other property within Tideland Survey Number Eight, threaten the city's ability to preserve the historic Ford Assembly Building, and render uncertain the expansion of desirable public access and commercial recreation facilities along this portion of the Richmond waterfront.

(7) It is intended that the resolution of these disputes and the consolidation and adjustment of public and private ownerships will be accomplished by and through exchanges of and boundary adjustments to lands referenced above. These exchanges and adjustments shall be for the purpose of effectuating the proposals referenced in paragraph (4) for the Richmond Harbor Development Area, including the public trust uses, and facilitating related plans for developing facilities outside the Richmond Harbor Development Area.

(8) The proposed exchanges, agreements, and adjustments will not interfere with, and will, in fact, be consistent with and further the purposes of, the public trust if all of the following occur:

(A) The value of any lands or interests in lands to be conveyed and made subject to the public trust, the value of any public trust easements to be conveyed or created, and the value of any public trust interest created regarding certain of the areas in dispute, and other areas, taken together, exceeds the combined value of the lands to be conveyed subject to the public trust easement, the land to be conveyed free of any public trust interest and the value of the public trust interest to be terminated pursuant to exchanges, agreements, and adjustments.

(B) The lands over which the public trust will be terminated have been filled and reclaimed, those parcels consisting entirely of dry land lying above the present mean high tide line, and are not necessary in their public trust encumbered status for the highly beneficial program for development of the waterfront of the city, represented by the plans for the Richmond Harbor Development Area and plans for related or supporting facilities outside the Richmond Harbor Development Area, due to the current state of the lands.

(C) The lands over which the public trust will be terminated are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property.

(D) Streets in or serving the Richmond Harbor Development Area and other property within Tideland Survey Number Eight have provided, and will continue to provide, public access to the water.

(E) The lands over which the public trust will be terminated constitute a relatively small portion of the tidelands granted to the city.

(F) The lands over which the public trust will be terminated are no longer needed or required for the promotion of the public trust or the granted lands trust, and the lands to be acquired through the exchange will serve public trust needs.

(b) It is therefore the intent of the Legislature, on, and subject to, the terms and conditions set forth in this act, to authorize, ratify, and confirm any agreement by the city and State Lands Commission, or by the city and State Lands Commission with any public or private entity, to enter into an exchange or exchanges of tide or submerged lands, or settlement regarding conflicting claims of ownership, and by that agreement or settlement terminate the public trust over filled tidelands consistent with the findings and declarations stated in this act.

SEC. 3. For the purposes of effectuating the exchanges, agreements, and adjustments referred to in Section 2, the State Lands Commission may do all of the following:

(a) Convey to the city, redevelopment agency, surplus property authority, or any private party, by patent, all of the right, title, and interest held by the state by virtue of its sovereign trust title to tide and submerged lands, including any public trust interest in and to all of the historic tide and submerged lands within the Richmond Harbor Development Area that are now above the mean high tide line, subject to the reservations that the State Lands Commission determines to be appropriate.

(b) Because of the factual circumstances listed in Section 2, enter an agreement and execute a patent or patents to the city, redevelopment agency, or any private party through which it may recognize a proprietary fee interest in lands below the mean high tide line at the Ford Assembly Building, reserving therefrom a public trust easement.

(c) In the property included within the perimeter description of Tideland Survey Number Eight, but outside of the Richmond Harbor Development Area, enter into agreements with the city, redevelopment agency, surplus property authority, or any private party to settle the location and extent of land subject to the public trust, or enter into exchange agreements pursuant to Section 6307 of the Public Resources Code. Land received or confirmed in the state as public trust lands through such agreements shall be patented by the State Lands Commission to the city, to be held in trust by the city as lands subject to the public trust, and the terms, conditions, and reservations of the

granted lands trust and other reservations that may be included in the patents by the State Lands Commission.

(d) Receive and accept on behalf of the state in its sovereign capacity any lands or any interest in lands, conveyed to the state in its sovereign capacity pursuant to this act and pursuant to any exchange, agreement, or adjustment authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement conveyed to the state in its sovereign capacity.

(e) Convey to the city by patent all of the right, title, and interest of the state in any lands conveyed to the state in its sovereign capacity pursuant to this act and pursuant to any exchange, agreement, or adjustment authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement, conveyed to the state in its sovereign capacity subject to the terms, conditions, and reservations that the State Lands Commission determines are necessary to meet the requirements of this act and the granted lands trust.

SEC. 4. In determining the value of any tide or submerged lands to be conveyed under this act, the city and the State Lands Commission shall give effect in their evaluation to all factors bearing upon the value, if any, of the public's interest being conveyed, released, quitclaimed, or settled, and the rights, claims, and equities of the person in whose favor the conveyance, release, quitclaim, or settlement is being made and the predecessors in interest. In those cases in which the lawfully sold tide or submerged lands have been filled, reclaimed, or improved without the expenditure of either state funds or of public moneys held in trust, the lands may be valued by excluding the value of the fill or improvements, or both. Consideration under this act may consist of lands, property, interest in property, easements, moneys, or other things of value given by the grantee or any other person.

SEC. 5. Section 4 of Chapter 317 of the Statutes of 1913 is amended to read:

Sec. 4. The City of Richmond may lease for a term not exceeding 55 years any wharves, docks, piers, or other aids or improvements to commerce, navigation, and other trust purposes constructed by it.

SEC. 6. Section 5 of Chapter 317 of the Statutes of 1913 is amended to read:

Sec. 5. The City of Richmond may lease the lands conveyed to it by Chapter 317 of the Statutes of 1913, for a term not to exceed 55 years and upon which wharves, docks, or other aids or improvements to commerce, navigation, and other trust purposes have not been actually constructed. The leases shall not be assignable or transferable, nor shall any lessee have the right to sublet the leased premises or any part thereof except by the consent of the city council of the City of Richmond set forth in an order of the city council.

SEC. 7. (a) Subject to the requirements for approval by the State Lands Commission specified in subdivision (b), whenever it is determined by the city that any portions of the tide or submerged lands granted to the city, by Chapter 317 of the Statutes of 1913 or other acts of the Legislature, are filled and reclaimed, cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the granted lands trust, and when it is further determined that there is no substantial interference with the public trust uses and purposes the city may terminate the public trust over those portions of the tidelands and exchange those portions of the tidelands, or any interest in those lands, to any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands or interests in lands of equal or greater value and for purposes of the granted lands trust.

(b) No exchange and trust termination under subdivision (a) shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed exchange and trust termination as a properly scheduled agenda item, does both of the following:

(1) Finds that the lands or interests in lands to be acquired by the city and the value of the public trust interest to be created by agreement of the city have a value equal to or greater than the value of the tidelands for which they are to be exchanged and the value of the tidelands over which the public trust will be terminated.

(2) Adopts a resolution approving the proposed exchange and trust termination, which finds and declares that the tidelands to be exchanged and over which the public trust will be terminated have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust; and, further, that no substantial interference with the public trust uses and purposes will ensue by virtue of the exchange, and trust termination. Upon adoption of the resolution, or at the time that may otherwise be specified in the resolution, the tidelands to be exchanged and with respect to which the public trust is to be terminated shall thereupon be free from the public trust.

SEC. 8. Any agreement, exchange, or adjustment pursuant to this act shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of the agreement, exchange, or adjustment, and commenced within 60 days after the recording of the agreement, exchange, or adjustment.

SEC. 9. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure by the parties to any agreement entered into pursuant to this act to confirm the validity of the agreement. Notwithstanding any provision of Section 764.080 of the Code of Civil Procedure, the statement of decision in the action shall include a recitation of the underlying facts and a determination whether the agreement meets the requirements of this act, Sections 3 and 4 of Article X of the California Constitution, and any other law applicable to the validity of the agreement.

SEC. 10. Agreements, exchanges, or adjustments made by the city, redevelopment agency, or surplus property authority pursuant to this act are hereby found to be of statewide significance and importance and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this act does not apply to the agreements, exchanges, or adjustments.

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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Richmond Harbor Development Area is planned for development by the City of Richmond and will include important areas of private development and significant public access elements. Those public access elements will tie into a larger area of continuous public access along the Richmond waterfront. The redevelopment of the Richmond Harbor Development Area and larger development projects will maximize public access to a broad area of the Richmond waterfront, in furtherance of the public trust and granted lands trust under which the remaining granted tide and submerged lands are held. In order to make lands available for public access, and to terminate legal uncertainties to title to inland areas for development as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 528

An act to amend Section 14664 of, and to add Section 14670.12 to, the Government Code, and to amend Section 10108 of the Public Contract Code relating to state property.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 14664 of the Government Code is amended to read:

14664. (a) The director may execute grants to real property belonging to the state in the name and upon behalf of the state, whenever the sale or exchange of real property is authorized or contemplated by law, if no other state agency is specifically authorized and directed to execute the grants. The director may also execute deeds or any other instruments necessary to correct erroneous descriptions on deeds by which the state acquired title.

(b) (1) Notwithstanding any other provision of law, upon the written request and consent of the state agency with control or jurisdiction over the property concerned, the director may sell, convey, or exchange properties that are not needed by any state agency at fair market value following a 30-day notice to the Joint Legislative Budget Committee and the applicable Members of the Senate and Assembly who represent the district in which the properties are located, under any of the following circumstances:

(A) Property, not to exceed five acres, to a local governmental agency for the purpose of local public works projects, including, but not limited to, utility rights-of-way, drainage ditches, road widening, including curbs, gutters, sidewalks, and small parking lots.

(B) Property with a fair market value of up to one million dollars ($1,000,000) received by the state through the office of the Attorney General or another state agency as the result of a foreclosure, seizure, or court action.

(C) Property that is being encroached on , where the adjacent landowner and the state agency with control or jurisdiction over the property concerned, the director, and the Attorney General agree that the best manner in which to resolve the matter is through a sale of the property or for an exchange of property of equal value.

(D) Property not needed by any state agency with a fair market value of less than twenty-five thousand dollars ($25,000).

(2) Any parcel described in subparagraph (B) or (D) shall be declared surplus in the identical manner as state property declared surplus pursuant to Section 11011.

(3) All funds received by the state pursuant to this subdivision shall be handled in the identical manner as funds received from state property disposed of pursuant to Section 11011.

SEC. 2. Section 14670.12 is added to the Government Code, to read:

14670.12. (a) Notwithstanding Section 14670, and with the consent of the state agency concerned, the director may let any real property owned by the state not exceeding five acres for a period not to

exceed 25 years, to governmental entities to further the state's mission for providing emergency services, if he or she deems it to be in the best interest of the state.

(b) The director shall report annually to the Legislature on how the department is utilizing the authority granted under this section.

SEC. 3. Section 10108 of the Public Contract Code is amended to read:

10108. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed four hundred thousand dollars ($400,000), except that the four hundred thousand dollars ($400,000) limitation shall not apply to a project of a district agricultural association or a project of the State Lands Commission.

If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars ($25,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. However, the director may authorize the district or agency to carry out work in excess of twenty-five thousand dollars ($25,000) under the provisions of this section by day labor if he or she deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state. In no event shall the amount of work performed by day labor under this section exceed the sum of fifty thousand dollars ($50,000) in the case of district agricultural association fair projects, or thirty-five thousand dollars ($35,000) in other cases.

CHAPTER 529

An act to add Section 14406 to the Financial Code, relating to credit unions.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 14406 is added to the Financial Code, to read:

14406. The savings capital, undivided profits, and reserve funds of a credit union shall be deposited only in the following:

(a) Commercial banks or trust companies, incorporated under the laws of this state.

(b) National banks doing business in this state.

(c) Shares or periodic certificates for funds received by or any form of evidence of interest or indebtedness issued by any credit union organized under this division or by any other credit union if its member accounts are insured as provided for by Subchapter II of the Federal Credit Union Act (12 U.S.C. Sec. 1781 et seq.), or, alternatively, are insured by other means determined acceptable by the commissioner.

(d) Accounts with, investment certificates or withdrawable shares of, any savings and loan association doing business in this state that is an insured institution pursuant to the Federal Deposit Insurance Corporation Act (12 U.S.C. Sec. 1811 et seq.).

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 530

An act to add Section 17070.71 to the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 17070.71 is added to the Education Code, to read:

17070.71. (a) Notwithstanding subdivision (a) of Section 17070.70, new construction or modernization funded pursuant to this chapter may be upon real property leased to the applicant school district if all of the following conditions are met:

(1) The property is leased from another governmental entity.

(2) The term of the lease is for at least 40 years after approval of the project under this chapter, or the school district has a lease for at least 25 years on federal property. The board may authorize a lesser term, of not less than 30 years only if the board finds that granting an exception to this requirement would be in the state's best interest.

(b) The applicant school district, and the facility on leased land, if any, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, schoolsites and school buildings.

(c) Lease costs are not eligible project or site acquisition costs under 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:

To expedite new construction or modernization of school facilities on leased property, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 531

An act to add Article 5 (commencing with Section 44110) to Chapter 1 of Part 25 of, and to add Article 6 (commencing with Section 87160) to Chapter 1 of Part 51 of, the Education Code, relating to public school employees.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Article 5 (commencing with Section 44110) is added to Chapter 1 of Part 25 of the Education Code, to read:

Article 5. Reporting by School Employees of Improper Governmental Activities

44110. This article shall be known and may be referred to as the Reporting by School Employees of Improper Governmental Activities Act.

44111. It is the intent of the Legislature that school employees and other persons disclose, to the extent not expressly prohibited by law, improper governmental activities.

44112. For the purposes of this article, the following terms have the following meanings:

(a) ''Employee'' means a public school employee as defined in subdivision (j) of Section 3540.1 of the Government Code.

(b) ''Illegal order'' means any directive to violate or assist in violating a federal, state, or local law, rule, or regulation or an order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

(c) ''Improper governmental activity'' means an activity by a public school agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that activity is within the scope of his or her employment, and that meets either of the following descriptions:

(1) The activity violates a state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty.

(2) The activity is economically wasteful or involves gross misconduct, incompetency, or inefficiency.

(d) ''Person'' means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(e) ''Protected disclosure'' means a good faith communication that discloses or demonstrates an intention to disclose information that may evidence either of the following:

(1) An improper governmental activity.

(2) Any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

(f) ''Public school employer'' has the same meaning as in subdivision (k) of Section 3540.1 of the Government Code.

44113. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to an official agent matters within the scope of this article.

(b) For the purpose of subdivision (a), ''use of official authority or influence'' includes promising to confer or conferring any benefit; affecting or threatening to affect any reprisal; or taking, directing others to take, recommending, processing, or approving any personnel action, including, but not limited to appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) For the purpose of subdivision (a), ''official agent'' includes a school administrator, member of the governing board of a school district

or county board of education, county superintendent of schools, or the Superintendent of Public Instruction.

(d) An employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(e) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

44114. (a) A public school employee or applicant for employment with a public school employer who files a written complaint with his or her supervisor, a school administrator, or the public school employer alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 44113 for having disclosed improper governmental activities or for refusing to obey an illegal order may also file a copy of the written complaint with the local law enforcement agency together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the local law enforcement agency shall be filed within 12 months of the most recent act of reprisal that is the subject of the complaint.

(b) A person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a public school employee or applicant for employment with a public school employer for having made a protected disclosure is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for a period not to exceed one year. Any public school employee, officer, or administrator who intentionally engages in that conduct shall also be subject to discipline by the public school employer. If no adverse action is instituted by the public school employer, and it is determined that there is reasonable cause to believe that an act of reprisal, retaliation, threats, coercion, or similar acts prohibited by Section 44113, the local law enforcement agency may report the nature and details of the activity to the governing board of the school district or county board of education, as appropriate.

(c) In addition to all other penalties provided by law, a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a public school employee or applicant for employment with a public school employer for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, an action for damages shall not be available to the injured party unless the

injured party has first filed a complaint with the local law enforcement agency.

(d) This section is not intended to prevent a public school employer, school administrator, or supervisor from taking, failing to take, directing others to take, recommending, or approving a personnel action with respect to a public school employee or applicant for employment with a public school employer if the public school employer, school administrator, or supervisor reasonably believes the action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (e) of Section 44112.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective public school employee, the burden of proof shall be on the supervisor, school administrator, or public school employer to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the public school employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, school administrator, or public school employer fails to meet this burden of proof in an adverse action against the public school employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the public school employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of a public school employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

SEC. 2. Article 6 (commencing with Section 87160) is added to Chapter 1 of Part 51 of the Education Code, to read:

Article 6. Reporting by Community College Employees of Improper Governmental Activities

87160. This article shall be known and may be referred to as the Reporting by Community College Employees of Improper Governmental Activities Act.

87161. It is the intent of the Legislature that community college employees and other persons disclose, to the extent not expressly prohibited by law, improper governmental activities.

87162. For the purposes of this article, the following terms have the following meanings:

(a) ''Employee'' means a public school employee as defined in subdivision (j) of Section 3540.1 of the Government Code as construed to include community college employees.

(b) ''Illegal order'' means any directive to violate or assist in violating a federal, state, or local law, rule, or regulation or an order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

(c) ''Improper governmental activity'' means an activity by a community college or by an employee that is undertaken in the performance of the employee's official duties, whether or not that activity is within the scope of his or her employment, and that meets either of the following descriptions:

(1) The activity violates a state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty.

(2) The activity is economically wasteful or involves gross misconduct, incompetency, or inefficiency.

(d) ''Person'' means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(e) ''Protected disclosure'' means a good faith communication that discloses or demonstrates an intention to disclose information that may evidence either of the following:

(1) An improper governmental activity.

(2) Any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

(f) ''Public school employer'' has the same meaning as in subdivision (k) of Section 3540.1 of the Government Code as construed to include community college districts.

87163. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to an official agent matters within the scope of this article.

(b) For the purpose of subdivision (a), ''use of official authority or influence'' includes promising to confer or conferring any benefit; affecting or threatening to affect any reprisal; or taking, directing others to take, recommending, processing, or approving any personnel action, including, but not limited to appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) For the purpose of subdivision (a), ''official agent'' includes a community college administrator, member of the governing board of a community college district, or the Chancellor of the California Community Colleges.

(d) An employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(e) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

87164. (a) An employee or applicant for employment with a public school employer who files a written complaint with his or her supervisor, a community college administrator, or the public school employer alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 87163 for having disclosed improper governmental activities or for refusing to obey an illegal order may also file a copy of the written complaint with the local law enforcement agency, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the local law enforcement agency shall be filed within 12 months of the most recent act of reprisal that is the subject of the complaint.

(b) A person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a public school employer for having made a protected disclosure is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for a period not to exceed one year. An employee, officer, or administrator who intentionally engages in that conduct shall also be subject to discipline by the public school employer. If no adverse action is instituted by the public school employer, and it is determined that there is reasonable cause to believe that an act of reprisal, retaliation, threats, coercion, or similar acts prohibited by Section 87163, the local law enforcement agency may report the nature and details of the activity to the governing board of the community college district.

(c) In addition to all other penalties provided by law, a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a

public school employer for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, an action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the local law enforcement agency.

(d) This section is not intended to prevent a public school employer, school administrator, or supervisor from taking, failing to take, directing others to take, recommending, or approving a personnel action with respect to an employee or applicant for employment with a public school employer if the public school employer, school administrator, or supervisor reasonably believes an action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (e) of Section 87162.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, school administrator, or public school employer to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, school administrator, or public school employer fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of an employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

SEC. 3. Nothing in this act is intended to supersede or limit the application of the privilege of subdivision (b) of Section 47 of the Civil Code to informants and proceedings conducted pursuant to Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title

2 of the Government Code, as confirmed in Braun v. Bureau of State Audits (1998) 67 Cal.App.4th 1382.

SEC. 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 532

An act to add Chapter 9.5 (commencing with Section 44299.50) and Chapter 9.7 (commencing with Section 44299.75) to Part 5 of Division 26 of the Health and Safety Code, relating to air quality.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 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 Sacramento federal ozone nonattainment area is a geographical and meteorological entity not reflected by political boundaries.

(b) The region has serious and severe air pollution problems caused by the operation of more than 1,300,000 vehicles within the region, combined with the operation of heavy-duty commercial vehicles moving statewide goods through the region.

(c) Despite the implementation of improved emission controls on motor vehicles and stationary sources, rapid population growth and increases in vehicle miles traveled in and through the region has resulted in severe air pollution that is expected to worsen in future years.

(d) The state and federal governments have adopted ambient air quality standards in order to protect public health, and it is in the public interest that those standards be attained as expeditiously as possible.

(e) In order to achieve and maintain these air quality standards, protect public health, and preserve necessary economic growth, a Sacramento Emergency Clean Air and Transportation Program is required to be implemented in order to provide the maximum achievable reduction in emissions from existing sources and to provide for the maximum feasible reduction or mitigation of emissions resulting from

future population growth, increased vehicle mileage, and other new sources of onroad emissions.

(f) In order to successfully develop and implement a comprehensive program for the attainment and maintenance of state and federal ambient air quality standards in the region, the air quality management districts in the Sacramento federal ozone nonattainment area must be delegated additional resources and responsibility from the state, particularly with respect to reducing motor vehicle emissions from public fleets and from those vendor fleets that contract with public entities.

(g) In order to successfully implement a coordinated air quality strategy for the region, the actions and responsibilities of local and regional authorities with respect to the implementation of air pollution control strategies must be fully integrated among the air districts comprising the Sacramento federal ozone nonattainment area. These districts include the El Dorado Air Pollution Control District, Feather River Air Quality District, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, and Yolo-Solano Air Quality Management District.

SEC. 2. The Legislature further finds and declares all of the following:

(a) The San Joaquin Valley Air Basin is currently classified as a ''serious'' nonattainment area under the ambient air quality standards for ozone.

(b) The San Joaquin Valley Air Basin did not meet the deadline for attaining compliance with the air quality standards for ozone in 1999 and as a result will soon be reclassified as a "severe" nonattainment area, and will have a new attainment deadline of 2005.

(c) In order to attain compliance with the ambient air quality standards by the 2005 deadline, the San Joaquin Valley Air Basin must maintain three consecutive years in compliance, and thus must be in compliance beginning in 2003. To attain compliance with those standards, the San Joaquin Valley Air Basin must immediately achieve significant reductions in emissions from mobile and stationary sources.

(d) The early introduction of low-emission technology for heavy-duty vehicles provides the best opportunity for emissions reduction in the San Joaquin Valley Air Basin.

SEC. 3. Chapter 9.5 (commencing with Section 44299.50) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9.5. SACRAMENTO EMERGENCY CLEAN AIR AND TRANSPORTATION PROGRAM

44299.50. As used in this chapter, the following terms have the following meanings:

(a) ''Advanced introduction costs'' means the costs of the project less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. ''Advanced introduction costs'' may include, but are not limited to, incremental costs, additional operational costs, facility modifications, additional staff training, fueling infrastructure, and costs associated with off-cycle vehicle replacement, as determined by the Sacramento Region Districts.

(b) ''Attainment'' means meeting the National Ambient Air Quality Standards for ozone.

(c) ''Conformity'' means that a transportation program, project, and plan promulgated by the Sacramento Area Council of Governments is able to successfully comply with Sections 7410 and 7506 of Title 42 of the United States Code, so as to qualify for an approval, license, or permit, or to obtain financial assistance, from the federal agencies specified in those sections.

(d) ''Covered engine'' includes any internal combustion engine or electric motor and drive powering a covered source.

(e) ''Covered source'' includes onroad heavy-duty diesel vehicles and other onroad high-emitting diesel engine categories, as determined by SACOG.

(f) ''Covered vehicle'' includes any vehicle or piece of equipment powered by a covered engine.

(g) ''New very low-emission vehicle'' means a vehicle that qualifies as a very low emission vehicle when it is a new vehicle, as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low-emission vehicle within 12 months of delivery to an owner for private or commercial use.

(h) ''NO_x'' means oxides of nitrogen.

(i) ''Program'' means the Sacramento Emergency Clean Air and Transportation Program created by this chapter.

(j) ''Repower'' means replacing an engine with a different engine. The term ''repower,'' as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a newer engine certified to lower emissions standards may be eligible for funding under this program.

(k) ''Retrofit'' means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(*l*) ''SACOG'' means the Sacramento Area Council of Governments.

(m) ''Sacramento federal ozone nonattainment area'' means the area defined by the United States Environmental Protection Agency in the Federal Register notice dated November 6, 1991 (56 Fed. Reg. 56694).

(n) ''Sacramento Region Districts'' means the El Dorado Air Pollution Control District, Feather River Air Quality District, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, and Yolo-Solano Air Quality Management District.

(o) ''Very low-emission vehicle'' means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels determined pursuant to the criteria in Section 44282.

44299.51. There is hereby created the Sacramento Emergency Clean Air and Transportation Program. The program shall be administered by SACOG. The implementation of the program, in whole or in part, may be delegated by SACOG to the Sacramento Region Districts.

The program may provide grants to offset the advanced introduction costs of eligible projects that reduce onroad emissions of NO_x within the Sacramento federal ozone nonattainment area. Eligibility for grant awards shall be determined by SACOG, or delegated by SACOG to the Sacramento Region Districts, in accordance with this chapter.

44299.52. (a) Eligible projects may include, but shall not be limited to, any of the following:

(1) Purchase of new very low- or zero-emission covered vehicles or covered engines to replace older heavy-duty diesel vehicles or engines.

(2) NO_x emission-reducing retrofit of covered engines, or replacement of old diesel engines and drives powering covered sources with newer diesel engines and drives certified to more stringent NO_x emissions standards than the engine being replaced.

(3) Purchase and use of NO_x emission-reducing add-on equipment for covered vehicles.

(4) Implementation of practical, low-emission retrofit technologies, repower options, advanced technologies, or low sulfur diesel or alternative fuel mixtures for covered engines and vehicles.

(b) In determining eligible projects, SACOG or the Sacramento Region Districts shall not exclude any technology based on the type of fuel utilized by that technology.

(c) Eligible applicants may be any individual, company, or public agency that owns one or more covered vehicles that operate primarily within the Sacramento federal ozone nonattainment area or otherwise contribute substantially to the NO_x emissions inventory in the Sacramento federal ozone nonattainment area.

(d) The program shall provide grants to eligible projects that help reduce onroad NO_x emissions on a timely and cost-effective basis within the Sacramento federal ozone nonattainment area in order to maximize the reduction in NO_x emissions from available funds, thereby aiding the

area in its efforts to achieve applicable air quality conformity goals in 2002 and 2005.

44299.53. (a) Funds to implement the program shall be provided from the amount allocated from the Traffic Congestion Relief Fund for the purposes of paragraph (118) of subdivision (a) of Section 14556.40 of the Government Code.

(b) To ensure that emission reductions are obtained as needed from pollution sources, funds provided as described in subdivision (a) shall be segregated as follows:

(1) Not more than 1 percent of the funds provided as described in subdivision (a) shall be allocated to program support and outreach costs incurred by SACOG or the Sacramento Region Districts directly associated with implementing the program pursuant to this chapter.

(2) Not more than 2 percent of the funds provided as described in subdivision (a) shall be allocated to direct program outreach activities.

(3) The balance shall be used to offset costs of eligible projects.

(c) SACOG, in consultation with the Sacramento Region Districts, shall specify procedures by which evaluation and review of eligible projects shall be accomplished.

(d) The Sacramento Region Districts shall include an evaluation of the emission benefits provided by those eligible projects that are implemented in the Sacramento federal ozone nonattainment area in the milestone reports submitted in 2002 and 2005 to the United States Environmental Protection Agency pursuant to subsection (g) of Section 7511a of Title 42 of the United States Code.

(e) Funds provided to SACOG as described in subdivision (a) shall not be expended on any NO_x control retrofit technology unless that technology has been determined to be eligible for use in the program pursuant to Section 44299.54.

44299.54. On or before January 10, 2001, the executive officer of the state board shall make a determination as to the eligibility of NO_x retrofit technologies for use in the program, and may make additional determinations of eligibility of NO_x technologies after January 10, 2001. In order to be determined eligible by the executive officer of the state board, each NO_x retrofit technology shall have, at a minimum, the ability to reduce onroad heavy-duty diesel emissions of NO_x by 10 percent or more and shall be durable and effective in reducing emissions, as determined by the executive officer of the state board.

44299.55. All emissions reductions and credits achieved as a result of programs initiated under this chapter shall be used to fulfill local and regional commitments to air quality standards. Any additional reductions or credits that may exist after the local or regional commitment to air quality is fulfilled may be used to fulfill the state's commitment to air quality standards and attainment.

SEC. 4. Chapter 9.7 (commencing with Section 44299.75) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9.7. SAN JOAQUIN VALLEY EMERGENCY CLEAN AIR ATTAINMENT PROGRAM

44299.75. As used in this chapter, the following terms have the following meanings:

(a) ''Advanced introduction costs'' means the costs of the project, less a baseline cost that would otherwise be incurred by the applicant in the normal course of business. ''Advanced introduction costs'' may include, but shall not be limited to, incremental costs, additional operational costs, facility modifications, additional staff training, fueling infrastructure, and costs associated with off-cycle vehicle replacement, as determined by the district.

(b) ''Attainment'' means meeting the National Ambient Air Quality Standards (NAAQS) for ozone.

(c) ''Covered engine'' includes any internal combustion engine or electric motor and drive powering a covered source.

(d) ''Covered source'' includes onroad and off-road heavy-duty diesel vehicles and other onroad and off-road high-emitting diesel engine categories, as determined by the San Joaquin Valley Air Pollution Control District.

(e) ''Covered vehicle'' includes any vehicle or piece of equipment powered by a covered engine.

(f) ''District'' means the San Joaquin Valley Air Pollution Control District.

(g) ''New very low-emission vehicle'' means a vehicle that qualifies as a very low-emission vehicle when it is a new vehicle, as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low-emission vehicle within 12 months of delivery to an owner for private or commercial use.

(h) ''NO_x'' means oxides of nitrogen.

(i) ''Program'' means the San Joaquin Valley Emergency Clean Air Attainment Program created by this chapter.

(j) ''Repower'' means replacing an engine with a different engine. The term ''repower,'' as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a new engine certified to lower emissions standards may be eligible for funding under this program.

(k) ''Retrofit'' means making modifications to the engine and fuel system such that the retrofitted engine does not have the same specifications as the original engine.

(*l*) ''San Joaquin Valley federal ozone nonattainment area'' means the area defined by the United States Environmental Protection Agency on page 56699 of Volume 56 of the Federal Register dated November 6, 1991.

(m) ''Very low-emission vehicle'' means a vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels determined pursuant to the criteria in Section 44282.

44299.76. (a) There is hereby created the San Joaquin Valley Emergency Clean Air Attainment Program. The program shall be administered and implemented by the district.

(b) The program may provide grants to offset the advanced introduction costs of eligible projects that the district determines aid in the reduction of onroad and off-road emissions of NO_x within the San Joaquin Valley federal ozone nonattainment area.

(c) Eligibility of projects for grant awards shall be determined by the district in accordance with this chapter.

44299.77. (a) Eligible projects may include, but shall not be limited to, any of the following:

(1) Purchase of new very low- or zero-emission covered vehicles or covered engines to replace older heavy-duty diesel vehicles or engines.

(2) NO_x emission-reducing retrofit of covered engines, or replacement of old diesel engines and drives powering covered sources with newer diesel engines and drives certified to more stringent NO_x emissions standards than the engine being replaced.

(3) Purchase and use of NO_x emission-reducing add-on equipment for covered vehicles.

(4) Implementation of practical, low-emission retrofit technologies, repower options, advanced technologies, or low sulfur or alternative fuel mixtures for covered engines and vehicles.

(b) In determining eligible projects, the district shall not exclude any technology based on the type of fuel utilized by that technology.

(c) Eligible applicants may be any person or public agency that owns one or more covered vehicles that operate primarily within the San Joaquin Valley federal ozone nonattainment area or otherwise contribute substantially to the NO_x emissions inventory in the San Joaquin Valley federal ozone nonattainment area, as determined by the district.

(d) The program shall provide grants to eligible projects that help reduce onroad and off-road NO_x emissions on a timely and cost-effective basis within the San Joaquin Valley federal ozone nonattainment area in order to maximize the reduction in NO_x emissions from available funds,

thereby aiding the area in its efforts to achieve applicable air quality goals.

44299.78. (a) Funds to implement the program shall be provided from the amount allocated from the Traffic Congestion Relief Fund for the purposes of paragraph (100) of subdivision (a) of Section 14556.40 of the Government Code.

(b) Funds from the account may be reserved by the district for local governments within the San Joaquin Valley federal ozone nonattainment areas that adopt an eligible program pursuant to this chapter.

(c) To ensure that emission reductions are obtained as needed from pollution sources, any funds provided as described in subdivision (a) shall be segregated as follows:

(1) Not more than 1 percent of the funds shall be allocated to program support and outreach costs incurred by the district directly associated with implementing the program pursuant to this chapter.

(2) Not more than 2 percent of the funds provided as described in subdivision (a) shall be allocated to direct program outreach activities.

(3) The balance shall be used to offset costs of eligible projects.

(d) Funds provided as described in subdivision (a) shall be allocated to the district upon the approval by the district of an application from an eligible applicant regarding an eligible project. The district may determine the maximum amount of annual funding each applicant may receive.

(e) Funds provided as described in subdivision (a) shall not be expended on any NO_x control retrofit technology unless the technology has been determined to be eligible for use in the program pursuant to Section 44299.79.

44299.79. On or before January 10, 2001, the executive officer of the state board shall make a determination as to the eligibility of NO_x retrofit technologies for use in the program, and may make additional determinations of eligibility of NO_x technologies after January 10, 2001. In order to be determined eligible by the executive officer of the state board, each NO_x retrofit technology shall have, at a minimum, the ability to reduce onroad heavy-duty diesel emissions of NO_x by 10 percent or more and shall be durable and effective in reducing emissions, as determined by the executive officer of the state board.

CHAPTER 533

An act to amend Sections 111080, 111170, 111175, and 111180 of, and to add Sections 111172, 111192, and 111193 to, the Health and Safety Code, relating to water.

[Approved by Governor September 18, 2000. Filed with
Secretary of State September 19, 2000.]

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

SECTION 1. Section 111080 of the Health and Safety Code is amended to read:

111080. The quality and labeling standards requirements for bottled water and vended water, including mineral water, shall include all standards prescribed by Section 165.110 of Title 21 of the Code of Federal Regulations. In addition, bottled water and vended water, when bottled, shall comply with the following quality standards and any additional quality standards adopted by regulation that the department determines are reasonably necessary to protect the public health:

(a) Bottled water and vended water shall meet all maximum contaminant levels set for public drinking water that the department determines are necessary or appropriate so that bottled water may present no adverse effect on public health. New or revised allowable levels or monitoring provisions adopted for bottled water by the United States Food and Drug Administration under the federal Food, Drug and Cosmetic Act that are more stringent than the state requirements for bottled water are incorporated into this chapter and are effective on the date established by the federal provisions unless otherwise established by regulations of the department.

(b) Bottled and vended water shall not exceed 10 parts per billion of total triahalomethanes or five parts per billion of lead unless the department establishes a lower level by regulation.

(c) Bottled and vended water shall contain no chemicals in concentrations that the United States Food and Drug Administration or the state department has determined may have an adverse effect on public health.

SEC. 2. Section 111170 of the Health and Safety Code is amended to read:

111170. (a) Labeling and advertising of bottled water and vended water shall conform with this section, Chapter 4 (commencing with Section 110290), and applicable portions of Part 101 of Title 21 of the Code of Federal Regulations.

(b) Each container of bottled water sold in this state, each water-vending machine, and each container provided by retail water facilities located in this state shall be clearly labeled in an easily readable format. Retail water facilities that do not provide labeled containers shall post, in a location readily visible to consumers, a sign conveying required label information.

(c) Water-vending machines, retail water facilities, and private water sources that sell water at retail shall display in a position clearly visible to customers the following information:

(1) The name and address of the operator.

(2) The fact that the water is obtained from an approved public water supply or licensed private water source.

(3) A statement describing the treatment process used.

(4) If no treatment process is utilized, a statement to that effect.

(5) A telephone number that may be called for further information, service, or complaints.

(d) Bottled water may be labeled ''drinking water,'' notwithstanding the source or characteristics of the water, only if it is processed pursuant to the Food and Drug Administration Good Manufacturing Practices contained in Section 165.110 and Parts 110 and 129 of Title 21 of the Code of Federal Regulations, Sections 12235 to 12285, inclusive, of Title 17 of the California Code of Regulations, and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155. Any vended water and any water from a retail water facility may be labeled ''drinking water,'' notwithstanding the source or characteristics of the water, only if it is processed pursuant to Article 10 (commencing with Section 114200) of Chapter 4 of Part 7 and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155.

SEC. 3. Section 111172 is added to the Health and Safety Code, to read:

111172. (a) The labeling on bottled water sold in nonreturnable (one-way) packages in this state shall include one of the following:

(1) A telephone number of the bottler or brand owner.

(2) The bottler's or brand owner's mailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottler's or brand owner's E-mail address or website.

(c) This section shall become operative on January 1, 2002.

SEC. 4. Section 111175 of the Health and Safety Code is amended to read:

111175. (a) In addition to the requirements of Section 111170, if a bottler, distributor, water hauler, retail water facility operator, or vending machine operator provides information in the labeling or advertising stating or implying that this water is of a specific water type (for example, ''spring water'') or treated in a specific manner (for example, ''purified''), the type or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the definitions established in Section 165.110 of Title 21 of

the Code of Federal Regulations, or, if not defined in that section, with the following criteria:

(1) ''Mineralized water'' means bottled or vended water that meets the requirements of ''mineral water'' except that the water contains added minerals.

(2) ''Natural water'' means bottled or vended spring, artesian well, or well water that is unmodified by mineral addition or deletion, except ''natural water'' may be filtered and shall be sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance that exceeds safety standards established by the department.

(3) ''Naturally sparkling water'' means bottled water or vended water with a carbon dioxide content from the same source as the water. ''Sparkling,'' ''carbonated,'' or ''carbonation added'' means bottled water or vended water that contains carbon dioxide.

(4) Notwithstanding any other provision of this section, water from a public water system that is unprocessed by the bottler or vendor shall be in compliance with Section 165.110(a)(3)(ii) of Title 21 of the Code of Federal Regulations.

SEC. 5. Section 111180 of the Health and Safety Code is amended to read:

111180. Except as provided in Section 111080, any bottled water or vended water, the quality of which is below the quality required by this article, shall be labeled with a statement of substandard quality, as prescribed by subsection (b) of Section 165.110 of Subpart B of Part 165 of Title 21 of the Code of Federal Regulations.

SEC. 6. Section 111192 is added to the Health and Safety Code, to read:

111192. (a) Bottlers and water haulers that distribute directly to consumers shall provide a sentence on each billing statement that includes one of the following:

(1) A telephone number of the bottler or brand owner.

(2) The bottler's or brand owner's mailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottler's or brand owner's E-mail address or website.

(c) Bottlers and water haulers that distribute directly to consumers shall, in the billing statement, provide to new customers, and to existing customers once per year thereafter, the following statement:

''As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug Administration (FDA). For further information, please contact (insert the name of the bottler or brand owner) at (insert the bottler's or brand owner's telephone number or mailing address).''

(d) Water vending machines shall display the same information on the machines that is required under subdivisions (a) and (c).

(e) Retail water facilities shall provide new customers the same information that is required under subdivisions (a) and (c). These facilities shall also display this information in a take-home format.

(f) This section shall become operative on January 1, 2002.

SEC. 7. Section 111193 is added to the Health and Safety Code, to read:

111193. (a) The department may by written permission allow a person to package water for use in public emergencies without obtaining a water bottling license, where the emergency has resulted in the interruption of, or has compromised the quality of, the public drinking water supply. This permission may authorize the suspension of any provision of this chapter and related regulations.

(b) (1) The department may at any time change or impose on the permittee any requirements such as testing, equipment, and documentation that the department deems necessary to protect public health but in doing so shall consider the effect of those requirements in light of the urgency of the situation. The department may grant or withdraw this permission at any time.

(2) Packing, distribution, and use of water under this permit shall only be allowed during the emergency period and shall end upon the restoration of adequate public drinking supplies as determined by the department. Distribution shall be limited to the area affected. Water so packaged shall be prominently labeled ''drinking water'', ''for emergency use only'', and ''not for sale'', or similar wording approved by the department.

(c) This section shall not be construed to restrict licensed water bottling plants from providing water processed in accordance with this chapter in emergency situations.

CHAPTER 534

An act to amend Sections 987.59 and 987.67 of, and to add Section 66.5 to, the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 66.5 is added to the Military and Veterans Code, to read:

66.5. (a) One member of the board shall have substantial training or professional expertise in mortgage lending and real estate finance.

(b) One other member of the board shall have substantial training or professional expertise in geriatrics, gerontology, or long-term care.

(c) Nothing in this section shall be construed to prohibit any member of the board from serving the remainder of his or her term.

SEC. 2. Section 987.59 of the Military and Veterans Code is amended to read:

987.59. (a) When a veteran has been authorized by the department to select a farm or home, he or she shall submit that selection for approval, as the department prescribes. The department shall have the sole responsibility for the underwriting and approval of all farm or home loans, subject to this article.

(b) In order to achieve efficient processing and approval of loans, the department shall do all of the following:

(1) The department shall establish all systems, procedures, technologies, and guidelines necessary to achieve efficient processing of farm or home loans submitted for approval by the department, with the intent of achieving loan delivery within an average of 30 days. These shall include, but may not be limited to, systems and technologies for the electronic transfer of loan funds and related fees.

(2) The department shall ensure optimal participation of qualified mortgage brokers and other qualified financial institutions and shall review, standardize, and where possible simplify, the documentation required of mortgage brokers and other qualified financial institutions. The department shall provide adequate training and certification of participating mortgage brokers and other qualified financial institutions.

(3) The department shall establish an outreach program to effectively disseminate information concerning the simplified and more efficient loan process to professional real estate and mortgage broker associations.

(4) The department shall offer broker compensation and fees sufficient to ensure optimal participation of the private sector in the loan origination process and consistent with the veteran borrower's interest in efficient and economical loan processing.

(5) The department shall provide access over the Internet to veteran applicants and their authorized agents to enable loan applications to be filed, processed, and tracked electronically.

(6) In cooperation with the Office of Administrative Law, the department shall, on or before October 30, 2000, promulgate all

regulations necessary to implement the provisions of this section and Section 987.67, with the intent of achieving loan delivery within an average of 30 days through measures including, but not limited to, optimal participation in the loan origination process by qualified private sector real estate mortgage associations.

SEC. 3. Section 987.67 of the Military and Veterans Code is amended to read:

987.67. (a) Before the purchase of any property by the department there shall be filed with the department (1) an appraisement of the market value of the property by an employee or an authorized agent of the department or (2) an appraisement of the market value of the property by either the Federal Housing Administration or the Veteran's Administration, and in addition there may be filed with the department an appraisement of the market value of the property by an authorized appraiser of a banking corporation formed under the laws of this state or of a national banking association having a place of business in this state. Each appraisement shall be certified by the maker thereof. The certification shall state that it is made in good faith, and that the valuation is honestly determined and represents the bona fide opinion of the maker.

(b) The department shall establish guidelines to ensure greater participation of state-licensed real estate appraisers and shall establish an outreach program to effectively disseminate information concerning the participation to professional appraisal associations or trade groups.

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 expedite the adoption of regulations for the efficient processing and approval of Cal-Vet loans, it is necessary that this act take effect immediately.

CHAPTER 535

An act to add Sections 50075.1, 50075.3, and 50075.5 to, and to add Article 1.5 (commencing with Section 53410) to Chapter 3 of Part 1 of Division 2 of Title 5 of, the Government Code, relating to local agency finance.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) This act shall be known and may be cited as the Local Agency Special Tax and Bond Accountability Act.

(b) The Legislature finds and declares that the California Constitution requires the voters of local agencies to approve the levy of special taxes and many forms of bonded indebtedness. These special taxes and bonds can be important sources of funding for local agencies' public facilities and public services. Earning the voters' confidence to support special taxes and bonds requires local agencies to demonstrate to the voters that they spend these funds on the intended facilities and services.

(c) The Legislature further finds and declares that the procedures for local agencies to obtain voter approval of special taxes and bonded indebtedness affect the general welfare of all Californians. Accordingly, the Legislature finds and declares that the procedures created by this act constitute an issue of statewide concern and not merely a municipal affair. Therefore, the Legislature intends that the procedures created by this act shall apply to all local agencies, including charter cities.

SEC. 2. Section 50075.1 is added to the Government Code, to read:

50075.1. On or after January 1, 2001, any local special tax measure that is subject to voter approval that would provide for the imposition of a special tax by a local agency shall provide accountability measures that include, but are not limited to, all of the following:

(a) A statement indicating the specific purposes of the special tax.

(b) A requirement that the proceeds be applied only to the specific purposes identified pursuant to subdivision (a).

(c) The creation of an account into which the proceeds shall be deposited.

(d) An annual report pursuant to Section 50075.3.

SEC. 3. Section 50075.3 is added to the Government Code, to read:

50075.3. The chief fiscal officer of the levying local agency shall file a report with its governing body no later than January 1, 2002, and at least once a year thereafter. The annual report shall contain both of the following:

(a) The amount of funds collected and expended.

(b) The status of any project required or authorized to be funded as identified in subdivision (a) of Section 50075.1.

SEC. 4. Section 50075.5 is added to the Government Code, to read:

50075.5. As used in this article:

(a) ''Local agency'' means any county, city, city and county, including a charter city or county, or any special district.

(b) ''Special district'' means an agency of the state, formed pursuant to general law or a special act, for the performance of governmental or

proprietary functions, with limited geographic boundaries, including, but not limited to, a school district and a community college district.

SEC. 5. Article 1.5 (commencing with Section 53410) is added to Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 1.5. Bond Accountability

53410. On or after January 1, 2001, any local bond measure that is subject to voter approval that would provide for the sale of bonds by a local agency shall provide accountability measures that include, but are not limited to, all of the following:

(a) A statement indicating the specific single purpose of the bond.

(b) A requirement that the proceeds be applied only to the specific purpose identified pursuant to subdivision (a).

(c) The creation of an account into which the proceeds shall be deposited.

(d) An annual report pursuant to Section 53411.

53411. The chief fiscal officer of the issuing local agency shall file a report with its governing body no later than January 1, 2002, and at least once a year thereafter. The annual report shall contain all of the following:

(a) The amount of funds collected and expended.

(b) The status of any project required or authorized to be funded as identified in subdivision (a) of Section 53410.

53412. As used in this article:

(a) ''Local agency'' means any county, city, city and county, including a charter city or county, or any special district.

(b) ''Special district'' means an agency of the state, formed pursuant to general law or a special act, for the performance of governmental or proprietary functions, with limited geographic boundaries, including, but not limited to, a school district and a community college district.

(c) ''Bond'' means any bonded indebtedness regardless of state law or charter that requires voter approval, including, but not limited to, general obligation bonds, revenue bonds, and bonds issued pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311)).

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CHAPTER 536

An act to amend Sections 25421, 25449.4, 25620.5, and 25620.8 of the Public Resources Code, relating to public resources, and making an appropriation therefor.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 25421 of the Public Resources Code is amended to read:

25421. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2011, and thereafter, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the General Fund.

SEC. 2. Section 25449.4 of the Public Resources Code is amended to read:

25449.4. (a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2011, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2011, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

SEC. 3. Section 25620.5 of the Public Resources Code is amended to read:

25620.5. (a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be

evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired contract is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and contractual factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better projects to the state.

(6) Whenever the price of the contract is not the determining factor.

(d) The commission may establish multiparty and interagency agreements with other entities to advance a defined research, development, and demonstration project purposes. The commission shall be a party to those agreements and shall share in the roles, responsibilities, risks, investments, and results of the agreement.

(e) The commission may choose from among two or more business entities capable of supplying or providing goods or services that meet a specified need of the commission. The cost to the state shall be reasonable and the commission shall only enter into a single source contract with a particular entity if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g), may select projects on a sole source basis when the cost to the state is reasonable and when, in consultation with the Department of General Services, the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance.

(4) The contract funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission shall not utilize a sole source basis for a project pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit semiannual reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. Section 25620.8 of the Public Resources Code is amended to read:

25620.8. The commission shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of any funded projects, and any recommendations for improvements in the program. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

CHAPTER 537

An act to amend Section 801.5 of the Civil Code, and to add and repeal Sections 25619 and 25620.10 of, the Public Resources Code, relating to energy programs.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

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

(a) Solar technologies produce clean, renewable energy while reducing California's energy deficit, creating in-state businesses and jobs in the manufacturing, contracting, and distribution industries, and

preserving California's preeminent role as home to the world's largest concentration of solar energy companies.

(b) High-efficiency, low polluting distributed generation resources, installed on customer sites, can reduce customer costs of energy, reduce environmental pollution associated with central station powerplants, and provide customers with improved reliability in the event of an electricity outage.

SEC. 2. Section 801.5 of the Civil Code is amended to read:

801.5. (a) The right of receiving sunlight as specified in subdivision 18 of Section 801 shall be referred to as a solar easement. ''Solar easement'' means the right of receiving sunlight across real property of another for any solar energy system.

As used in this section, ''solar energy system'' means either of the following:

(1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

(2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

(b) Any instrument creating a solar easement shall include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects that would impair or obstruct the passage of sunlight through the easement.

(3) The terms or conditions, if any, under which the easement may be revised or terminated.

SEC. 3. Section 25619 is added to the Public Resources Code, to read:

25619. (a) The commission shall develop a grant program to offset a portion of the cost of eligible solar energy systems. The goals of the program are all of the following:

(1) To make solar energy systems cost competitive with alternate forms of energy.

(2) To provide support for electricity storage capabilities in solar electric applications to facilitate enhanced reliability in the event of a power outage.

(3) To encourage the purchase by California residents of California-made solar systems.

(b) (1) The grant for an eligible solar energy system shall be based on either the performance of, or the type of, the solar energy system, as the commission determines, and the amount of the grant shall not exceed seven hundred fifty dollars ($750). Except as provided in paragraph (2), if a grant is awarded pursuant to this section for an eligible solar energy system that produces electricity, no grant shall be made for that system from any other grant program administered by the commission.

(2) An applicant who receives a grant for a photovoltaic solar energy system from another program administered by the commission, may also receive a grant for that system pursuant to this section, if all of the following conditions are met:

(A) The system will accomplish the purpose specified in paragraph (3) of subdivision (a).

(B) The system is an eligible solar energy system.

(C) The system includes adequate battery storage, as determined by the commission.

(c) Purchasers, sellers, owner-builders, or owner-developers of the solar energy system may apply for a grant under this section. An owner-builder or owner-developer of a new single-family dwelling on which a system is installed may elect not to apply for a grant on a solar energy system installed on a new single-family dwelling. If an owner-builder or owner-developer of a new single-family dwelling on which a system is installed elects not to apply for the grant for a solar energy system, the purchaser of the dwelling may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.

(d) The commission shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program. The guidelines shall be adopted at a publicly noticed meeting and all interested parties shall be provided an opportunity to comment either orally or in writing. Not less than 30 days notice shall be provided for the public meeting. Subsequent substantive changes to adopted guidelines shall be adopted by the commission at a public meeting upon written notice to the public of not less than 10 days. The guidelines adopted pursuant to this subdivision are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(e) The commission shall require installers of solar energy systems funded through grants under this section to be properly licensed to do so

by the Contractors' State License Board. This requirement does not apply to the owner of a single-family dwelling who installs a solar energy system on his or her single-family dwelling.

(f) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or become or remain eligible to receive an 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).

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

(1) ''Cost'' includes equipment, installation charges, and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, ''cost'' means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the cost incurred by the taxpayer in acquiring the solar energy system, excluding interest charges and maintenance expenses.

(2) (A) ''Eligible solar energy system'' means any new, previously unused solar energy device whose primary purpose is to provide for the collection, conversion, transfer, distribution, storage, or control of solar energy for water heating or electricity generation, and that meets applicable standards and requirements imposed by state and local permitting authorities, including, but not limited to, the National Electric Code. Eligible solar energy systems for water heating purposes shall be certified by the Solar Rating and Certification Corporation (SRCC) or any other nationally recognized certification agency that certifies complete systems. Major components of eligible solar energy systems for electricity generation shall be listed by a certified testing agency, such as the Underwriters Laboratory.

(B) ''Eligible solar energy system'' does not include any of the following:

(i) Wind energy devices that produce electricity or provide mechanical work.

(ii) Additions to or augmentation of existing solar energy systems.

(iii) A device that produces electricity for a structure unless the device is interconnected and operates in parallel with the electric grid.

(C) Eligible solar energy systems shall have a warranty of not less than three years.

(3) ''Installed'' means placed in a functionally operative state.

(h) 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. Section 25620.10 is added to the Public Resources Code, to read:

25620.10. (a) The commission shall develop and implement a grant program to offset a portion of the costs of eligible distributed generation systems.

(b) A grant for an eligible distributed generation system shall be based on either the performance or type of distributed generation system, as determined by the commission. The amount of the grant shall not exceed the lesser of 10 percent of the costs of the eligible distributed generation system or two thousand dollars ($2,000).

(c) An applicant who receives a grant for an eligible distributed generation system from another program administered by the commission may also receive a grant for that system pursuant to this section if the system possesses adequate black-start capability, as determined by the commission.

(d) Purchasers, sellers, owner-builders, or owner-developers of the eligible distributed generation system may apply for a grant under this section. If the owner-developer or owner-builder of the property on which a system is installed elects to not apply for a grant under this section, the purchaser of the property may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.

(e) The commission shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program, which shall be made available to the public. Not less than 30 days' notice shall be provided for a public meeting to adopt the guidelines. Public meetings to adopt subsequent substantive guideline changes require written public notice of not less than 10 days. The guidelines adopted pursuant to this subdivision are not 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.

(f) The commission shall require installers of eligible distributed generation systems funded through grants under this section to be properly licensed to do so by the Contractors' State License Board.

(g) 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 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).

(h) Eligible distributed generation systems shall have a warranty of not less than three years.

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

(1) ''Black-start capability'' means the capability to provide electricity to the customer in the event of an outage.

(2) ''Cost'' includes equipment, installation charges and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, ''cost'' means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the costs incurred by the customer in acquiring the distributed generation system, excluding interest charges and maintenance expenses.

(3) ''Distributed generation'' means any onsite generation, interconnected and operating in parallel with the electricity grid, that is used solely to meet onsite electric load.

(4) ''Eligible distributed generation system'' means any new, previously unused distributed generation system, interconnected and operating in parallel with the electricity grid, certified by the commission to provide environmental and system reliability benefits equal to or greater than the following specifications:

(A) Forty percent total fuel-to-energy conversion efficiency for any nonrenewable fuel system.

(B) Thirty-five percent total fuel-to-energy conversion efficiency for any renewable fuel system.

(C) Emission of oxides of nitrogen and any other applicable criteria pollutants that equal or exceed Best Achievable Control Technology (BACT) for natural gas fired central station powerplants. The State Air Resources Board shall, in consultation with the commission, prepare and update specifications for those emissions and other applicable criteria pollutants.

(D) Ninety percent total system reliability.

(5) Potentially certifiable technologies include all of the following:

(A) Microcogeneration.

(B) Gas turbines.

(C) Fuel cells.

(D) Electricity storage technologies in systems not eligible for grants under Section 25619.

(E) Reciprocating internal combustion engines.

(6) ''Installed'' means placed in a functionally operative state.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 5. The State Energy Resources Conservation and Development Commission shall only implement Sections 25619 and 25620.10 of the Public Resources Code to the extent that moneys are appropriated for the purposes of those sections in the annual Budget Act. The commission may annually expend up to a total of two hundred fifty thousand dollars ($250,000) of the funds collectively available for those programs to fund the commission's cost of administering the programs.

CHAPTER 538

An act to amend Section 625 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 625 of the Streets and Highways Code is amended to read:

625. (a) Route 880 is from Route 280 in San Jose to Route 80 in Oakland.

(b) (1) The commission may relinquish to the City of Oakland the portion of the former right-of-way of Route 880 that is located between 8th Street and 32nd Street within that city, upon terms and conditions the commission finds to be in the best interests of the state, including, but not limited to, a requirement that the department and the city enter into a cooperative agreement to improve, at the department's expense, the two parallel adjacent city streets, including, but not limited to, sidewalks, landscaping, and street lighting, when improving the portion of right-of-way that is to be relinquished in accordance with plans to be developed by the department. The cooperative agreement shall include, but need not to be limited to, all of the following:

(A) A requirement that, if the commission allocates funds for this purpose, the improvements include bicycle paths and the associated roadway improvements and landscaping, including a bicycle path that closes the gap in the San Francisco Bay Trail Plan.

(B) A requirement that the improvements include removal of contaminated materials on the department's property.

(C) A requirement that the improvements include erection of a memorial to the victims of the collapse of the Cypress Freeway Viaduct and to the heroism of those who responded to that disaster.

(2) A relinquishment under this subdivision shall become effective immediately following the commission's approval of the terms and conditions of the relinquishment.

CHAPTER 539

An act to amend Sections 8520, 8528, and 8674 of the Business and Professions Code, relating to pest control, and making an appropriation therefor.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 8528 of the Business and Professions Code is amended to read:

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than fifteen dollars ($15).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than fifteen dollars ($15).

(*l*) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An activity form fee, per property address, of not more than three dollars ($3).

(o) A fee for certifying a copy of an activity form of not more than three dollars ($3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(r) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(t) (1) Any person who pays a fee pursuant to subdivision (s) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby created and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be

accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(5) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

CHAPTER 540

An act relating to lead poisoning, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

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

SECTION 1. (a) There is hereby appropriated the sum of one million five hundred fourteen thousand dollars ($1,514,000) from the General Fund to the State Department of Health Services as follows:

(1) The sum of one million thirteen thousand dollars ($1,013,000) in augmentation of the appropriation made in Item 4260-111-0001 of the Budget Act of 2000 for Program 20.40 Primary Care and Family Health to fund lead poisoning screening or evaluation of children.

(2) The sum of three hundred one thousand dollars ($301,000) in augmentation of the appropriation made in Item 4260-101-0001 of the Budget Act of 2000 for Program 20.10.030 Benefits (Medical Care and Services) to fund lead poisoning screening or evaluation of children.

(3) The sum of two hundred thousand dollars ($200,000) in augmentation of Item 4260-001-0001 of the Budget Act of 2000 for Program 10 Public and Environmental Health to fund outreach to licensed health care providers to expand screening of children at risk of lead poisoning. It is the intent of the Legislature that in allocating funds appropriated in future years for this program in order to fund child lead poisoning prevention activities, priority consideration shall be given to community-based organizations and nonprofit organizations.

(b) The sum of three hundred seventeen thousand dollars ($317,000) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services in augmentation of Item 4260-101-0890 of the Budget Act of 2000 for Program 20.10.030 Benefits (Medical

Care and Services) to fund lead poisoning screening or evaluation of children.

SEC. 2. (a) In April 1999 the California State Auditor released a report on the Childhood Lead Poisoning Prevention program, entitled ''Department of Health Services: Has made little progress in protecting 21California's children from lead poisoning'' in which it strongly recommended that the department adopt regulations on screening for lead poisoning.

(b) The Bureau of State Audits shall conduct a followup assessment of the effectiveness of regulations to be implemented by the department the purpose of which are to increase the number of at-risk children being identified and that receive screening and evaluation for lead poisoning. The bureau shall also include in its assessment the extent to which the department has addressed the other recommendations made in the bureau's April 1999 report. The bureau shall submit the assessment to the Senate Committee on Health and Human Services and the Assembly Committee on Health by May 1, 2001.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to improve the health and well-being of lead poisoned children in California through increased identification, screening, and evaluation of children at risk, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 541

An act to add and repeal Article 6.8 (commencing with Section 20209.5) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. (a) The Legislature finds and declares that the design-build process is a valuable alternative to the existing three-step process for public transit entities. The design-build process can improve the project delivery process by accelerating delivery schedules and saving costs by promoting improved coordination between contractor and architect, shifting management risk from the public entity to the

design-build entity, and minimizing change orders through early collaboration between design and construction disciplines.

(b) The Legislature has recognized the merits of the design-build procurement process in the past by authorizing its use for projects undertaken by certain transit districts, the University of California, joint-venture public school projects, specified local government projects, and several state office buildings under construction in Oakland, San Francisco, and Los Angeles. The design-build procurement process has also been approved for use by public entities in other states, as well as by the federal government.

(c) Therefore, it is the intent of the Legislature in enacting this act to define the transit design-build construction procurement process and to establish the parameters for its use for public transit projects.

(d) In addition, it is the intent of the Legislature that the full scope of design, construction, and equipment awarded to a design-build entity shall be authorized in a single funding phase. The funding phase may be authorized concurrently with, or separately from, the phase that authorizes the creation of the performance criteria and concept drawings.

(e) It is the intent of the Legislature that transit design-build procurement as authorized by this act shall not be construed to extend, limit, or change in any manner the legal responsibility of public agencies and contractors to comply with existing laws requiring prompt and timely payment of progress payments and retention proceeds pursuant to the terms of the construction contract.

SEC. 2. Article 6.8 (commencing with Section 20209.5) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 6.8. Transit Design-Build Contracts

20209.5. As used in this article, the following terms have the following meanings:

(a) ''Best value'' means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the transit district.

(b) ''Design-build'' means a procurement process in which both the design and construction of a project are procured from a single entity.

(c) ''Design-build entity'' means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(d) ''RFP'' means request for proposal.

(e) ''Transit operator'' means any transit district, included transit district, municipal operator, included municipal operator, or transit

development board, as defined in Section 99210 of the Public Utilities Code, or any joint powers authority formed to provide transit service.

20209.6. When it is in the best interest of the transit operator, the transit operator may enter into a design-build contract for both the design and construction of a project under this article. After evaluation of the traditional design, bid, and build process of transit construction and of the design-build process in a public meeting, the transit operator shall make written findings that use of the design-build process on the specific project under consideration will accomplish one of the following objectives: reduce project costs, expedite the project's completion, provide design features not achievable through the design-bid-build method, prior to entering into a design-build contract. In the design-build project proposal, the written findings shall be included as part of any application for state funds pursuant to this chapter.

20209.7. Design-build projects shall progress in a three-step process, as follows:

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship preliminary plans or building layouts, or any other information deemed necessary to describe adequately the transit operator's needs. The performance specifications and any plans shall be prepared by a design professional duly licensed or registered in California.

(b) Any architectural or engineering firm or individual retained by the transit operator to assist in the development criteria or preparation of the request for proposal shall not be eligible to participate in the competition with the design-build entity.

(c) The transit operator shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(d) (1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(B) The methodology and rating or weighting scheme that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, transit operators, and other affected parties. This questionnaire shall require information including, but not limited to, all of the following:

(A) A listing of all the contractors that are part of the design-build entity.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) The licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the transit operator that the design-build entity has the capacity to complete the project.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596), settled against any member of the design-build entity, and information concerning a contractor member's workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(G) Any instance where the entity, its owner, officers or managing employees defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law, including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity during the past three years, including information concerning any work completed by a surety.

(J) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(K) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(L) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately

preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(M) In the case of a partnership or other association, that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be liable for full performance under the design-build contract.

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) The transit operator shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the two following procedures, except that in no case may the transit operator award a contract to a design-build entity pursuant to this article for a rail project unless that project exceeds fifty million dollars ($50,000,000) in cost:

(1) For projects with costs from ten million dollars ($10,000,000) to twenty million dollars ($20,000,000), inclusive, the contract shall be awarded to the lowest responsible bidder.

(2) For projects costing over twenty million dollars ($20,000,000), the transit operator may award the projects using either the lowest responsible bidder or by best value.

20209.8. Criteria used in the evaluation of proposals may include, but need not be limited to, the proposed design approach, life-cycle costs, project features, and project functions.

(a) Competitive proposals shall be evaluated by using only the criteria and source selection procedures specifically identified in the RFP. Once the evaluation is complete, all responsive bidders shall be ranked from most advantageous to least advantageous to the awarding agency.

(b) Any architectural or engineering firm or individual retained by the governing body to assist in the development criteria or preparation of the solicitation shall not be eligible to participate in the competition with any design-build entity.

(c) The award of the contract shall be made to the responsible bidder whose proposals are determined, in writing, to be the best value to the awarding body.

(d) Proposals shall be evaluated and scored solely on the basis of the factors and source selection procedures identified in the RFPs. However, the following minimum factors shall collectively represent at least 50

percent of the total weight or consideration given to all criteria factors: price, technical expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(e) The contracting agency shall issue a written decision supporting its contract award and stating in detail the basis of the award. The decision and the contract file shall be sufficient to satisfy an external audit.

(f) Notwithstanding any provision of the Public Contract Code, upon issuance of a contract award, the contracting agency shall publicly announce its award, identifying the contractor to whom the award is made, the winning contractor's price proposal, and its overall combined rating on the RFP evaluation factors. The notice of award shall also include the agency's ranking of all other offerors and their respective price proposals and a summary of the agency's rationale for the contract award.

(g) For the purposes of this section, ''skilled labor force availability'' shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has not been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(h) For the purposes of this section, a bidder's ''safety record'' shall be deemed ''acceptable'' if his or her experience modification rate for the most recent three-year period is an average of 1.0 or less and his or her average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

20209.9. If the governing body of a transit operator elects to award a transit capital project through the design-build selection process pursuant to this article, all of the following apply:

(a) The retention proceeds withheld by the transit operator from the design-build entity listed at the time of bid shall not exceed 5 percent.

(b) The transit operator shall not withhold retention from payments to the design-build entity for actual costs incurred and billed for design services, construction management services, or where applicable, for completed operations and maintenance services.

(c) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not

exceed the percentage specified in the contract between the transit operator and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time that the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the transit operator and the design-build entity from any payment made by the design-build entity to the subcontractor.

(d) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments specified in subdivision (b). Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(e) Upon request, the transit operator shall provide a list of parties who have requested a bid package.

20209.10. (a) Any design-build entity that is selected to design and build a project pursuant to this article shall possess or obtain sufficient bonding and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract consistent with this article. Nothing in this article prohibits a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this article shall be written using a bond form developed by the Department of General Services pursuant to subdivision (i) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on transit operator design-build projects throughout the state.

(c) All subcontracts that were not listed by the design-build entity in accordance with Section 20209.6 shall be awarded by the design-build entity. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the public entity.

(2) Provide a fixed date and time on which the subcontracted work will be awarded.

(d) Subcontractors bidding on contracts pursuant to this article shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

20209.11. (a) The minimum performance criteria and design standards established pursuant to this article by a transit operator for

quality, durability, longevity, life-cycle costs, and other criteria deemed appropriate by the transit operator shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the transit operator. The transit operator may retain the services of a design professional through the course of the project in order to ensure compliance with this article.

(b) The total price of the project shall be determined pursuant to subdivision (f) of Section 20209.6.

20209.12. Each transit operator that elects to proceed under this article and use the design-build method on a public works project shall prepare and deliver to the Legislative Analyst's office before December 1, 2005, a report containing a description of each public works project financed with public funds, procured through the design-build process, and completed on or before November 1, 2005. However, if a project has been commenced, but not completed on or before November 1, 2005, the transit operator shall complete a report no later than 120 days after completion of the project. The report shall include, but not be limited to, all of the following information:

(a) The type of facility.

(b) The gross square footage of the facility.

(c) The company or contractor who was awarded the project.

(d) The estimated and actual length of time to complete the project.

(e) The findings established pursuant to Section 20133 of the Public Contract Code.

(f) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.

(g) The estimated and actual project cost.

(h) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.

(i) An assessment of the prequalification process and criteria.

(j) An assessment of the impact of retaining 5 percent retention on the project.

(k) A description of the labor force compliance program and an assessment of the project impact, where required.

(*l*) A description of the method used to award the contract. If best value was the method, the factors used to evaluate the bid shall be described, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(m) An assessment of the project impact of ''skilled labor force availability.''

(n) An assessment of the design-build dollar limits on transit projects. This shall include projects where the transit operator wanted to use

design-build and was precluded by the dollar limitation. It shall also include projects where the best value method of awarding contracts was not used, due to dollar limitations.

(o) An assessment of the most appropriate uses for the design-build approach.

(p) Any transit operator that elects not to use the authority granted may also submit a report to the entities named in accordance with the schedule in this section. This report may include an analysis of why the authority granted was not used by the operator.

20209.13. Unless expressly set forth in this article, nothing in this article is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

20209.14. This article 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 542

An act to amend Sections 18203.2 and 18215 of, and to add Sections 18219 and 18607 to, the Health and Safety Code, and to amend Section 5003.4 of the Public Resources Code, relating to mobilehome parks.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 18203.2 of the Health and Safety Code is amended to read:

18203.2. ''Camping party'' means a person or group of not more than 10 persons occupying a campsite or camping cabin for not more than 30 days annually.

SEC. 2. Section 18215 of the Health and Safety Code is amended to read:

18215. (a) ''Recreational vehicle park'' is any area or tract of land, or a separate designated section within a mobilehome park, where two or more lots are rented or leased, or held out for rent or lease, to owners or users of recreational vehicles, camping cabins, or tents.

(b) Notwithstanding subdivision (a), an area or tract of land zoned for agricultural purposes where two or more lots are rented or leased, or held out for rent or lease, to owners or users of recreational vehicles or tents for the purpose of housing 12 or fewer agricultural employees, shall not be deemed a recreational vehicle park.

SEC. 3. Section 18219 is added to the Health and Safety Code, to read:

18219. (a) ''Camping cabin'' is a relocatable hard sided shelter with a floor area less than 400 square feet (37 square meters) without plumbing that is designed to be used within a recreational vehicle park only by a campingparty.

(b) A camping cabin may contain an electrical system and electrical space conditioning equipment complying with the electrical and mechanical regulations adopted pursuant to this part and supplied by the lot service equipment.

(c) A camping cabin may be installed or occupied only in special occupancy parks, as defined by Section 18216.1, or in state parks and other state property pursuant to Chapter 1 (commencing with Section 5001) of Division 5 of the Public Resources Code.

SEC. 4. Section 18607 is added to the Health and Safety Code, to read:

18607. (a) A camping cabin shall be designed to resist the following live loads: (1) floor live loads not less than 40 pounds per square foot of floor area; (2) horizontal live loads not less than 15 pounds per square foot of vertical wall and roof area; and (3) roof live loads not less than 20 pounds per square foot of horizontal roof area. In areas where snow loads are greater than 20 pounds per square foot, the roof shall be designed and constructed to resist these additional loads.

(b) Each sleeping room in a camping cabin shall have a second exit to the outside of the camping cabin, except that a window exit may be permitted as an alternative if the opening is not less than 20 inches wide and 24 inches high and the bottom of the window is located not more than 44 inches above the floor.

(c) Each sleeping room in a camping cabin shall be provided with an approved smoke detector. If the camping cabin contains an electrical system, the smoke detector shall be energized from that electrical system with a battery backup. If there is no electrical system in the camping cabin, a battery-operated smoke detector is permitted.

(d) All wall and ceiling surfaces in a camping cabin shall have a flame spread rating of not more than 200.

(e) Fuel-burning heating or cooking appliances shall not be operated within a camping cabin.

(f) Access for disabled persons to camping cabins shall be provided in conformance with applicable state and federal laws.

SEC. 5. Section 5003.4 of the Public Resources Code is amended to read:

5003.4. There shall be provided in each state park in which camping is permitted those parking facilities for recreational vehicles, as defined by Section 18010 of the Health and Safety Code, that can be

accommodated within the park consistent with the objective of providing camping facilities for the public in these parks. In addition, the Department of Parks and Recreation may install or permit the installation of camping cabins, as defined by Section 18219 of the Health and Safety Code, within the units of the state park system if installation of camping cabins is consistent with the general plan of the unit.

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

SEC. 7. Section 1 of this bill amends Section 18203.2 of the Health and Safety Code while Section 1 of SB 2131, which would become operative on January 1, 2002, proposes to repeal Section 18203.2 of the Health and Safety Code. Section 1 of this bill shall remain operative only until January 1, 2002, at which time Section 1 of SB 2131 shall become operative, if (1) both bills are enacted and become effective on or before January 1, 2001, (2) this bill amends Section 18203.2 of the Health and Safety Code, while SB 2131 repeals it, and (3) this bill is enacted after SB 2131.

SEC. 8. Section 2 of this bill amends Section 18215 of the Health and Safety Code while Section 9 of SB 2131, which would become operative on January 1, 2002, proposes to repeal Section 18215 of the Health and Safety Code. Section 2 of this bill shall remain operative only until January 1, 2002, at which time Section 9 of SB 2131 shall become operative, if (1) both bills are enacted and become effective on or before January 1, 2001, (2) this bill amends Section 18215 of the Health and Safety Code, while SB 2131 repeals it, and (3) this bill is enacted after SB 2131.

SEC. 9. Sections 3 and 4 of this bill, which add Sections 18219 and 18607 to the Health and Safety Code, respectively, shall remain operative only until January 1, 2002, if (1), SB 2131 and this bill are both enacted and become effective on or before January 1, 2001, (2) this bill adds Sections 18219 and 18607 to the Health and Safety Code, while SB 2131 adds Sections 18862.5 and 18873.6 to the Health and Safety Code, and (3) this bill is enacted after SB 2131.

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CHAPTER 543

An act to add Section 354.4 to the Code of Civil Procedure, relating to insurance for Armenian Genocide victims, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. (a) The Legislature recognizes that during the period from 1915 to 1923, many persons of Armenian ancestry residing in the historic Armenian homeland then situated in the Ottoman Empire were victims of massacre, torture, starvation, death marches, and exile. This period is known as the Armenian Genocide.

(b) The Legislature further recognizes that thousands of Armenian Genocide survivors and the heirs of Armenian Genocide victims are residents or citizens of the State of California. The Legislature further recognizes and finds that these people have, too often, been deprived of their entitlement to benefits under insurance policies issued in Europe and Asia by insurance companies prior to, and during the period of time of, the Armenian Genocide. California has an overwhelming public policy interest in ensuring that its residents and citizens who are claiming entitlement to benefits under policies issued to Armenian Genocide victims are treated reasonably and fairly and that those legal obligations are honored.

(c) It is the specific intent of the Legislature to ensure that Armenian Genocide victims and their heirs be permitted to have an expeditious, inexpensive, and fair forum in which to resolve their claims for benefits under these policies by allowing actions to be brought in California irrespective of any contrary forum selection provision contained in the policies themselves. It is the finding of the Legislature that enforcement of forum selection provisions in those policies would work an undue, unreasonable, and unjust hardship on Armenian Genocide victims and their heirs who are residents of California and that those provisions are against public policy and are hereby made unenforceable with respect to the policies as to which this act applies.

(d) To the extent that the statute of limitations regarding contractual or tort claims arising from the denial of benefits under the policies is extended by this act, that extension of the limitations period is intended to be applied retroactively, irrespective of whether the claims were otherwise barred by any applicable statute of limitations under any other provision of law prior to the enactment of this act.

SEC. 2. Section 354.4 is added to the Code of Civil Procedure, to read:

354.4. (a) The following definitions govern the construction of this section:

(1) ''Armenian Genocide victim'' means any person of Armenian or other ancestry living in the Ottoman Empire during the period of 1915 to 1923, inclusive, who died, was deported, or escaped to avoid persecution during that period.

(2) ''Insurer'' means an insurance provider doing business in the state, or whose contacts in the state satisfy the constitutional requirements for jurisdiction, that sold life, property, liability, health, annuities, dowry, educational, casualty, or any other insurance covering persons or property to persons in Europe or Asia at any time between 1875 and 1923.

(b) Notwithstanding any other provision of law, any Armenian Genocide victim, or heir or beneficiary of an Armenian Genocide victim, who resides in this state and has a claim arising out of an insurance policy or policies purchased or in effect in Europe or Asia between 1875 and 1923 from an insurer described in paragraph (2) of subdivision (a), may bring a legal action or may continue a pending legal action to recover on that claim in any court of competent jurisdiction in this state, which court shall be deemed the proper forum for that action until its completion or resolution.

(c) Any action, including any pending action brought by an Armenian Genocide victim or the heir or beneficiary of an Armenian Genocide victim, whether a resident or nonresident of this state, seeking benefits under the insurance policies issued or in effect between 1875 and 1923 shall not be dismissed for failure to comply with the applicable statute of limitation, provided the action is filed on or before December 31, 2010.

(d) The provisions of this section are severable. If any provision of this section 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. 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 just compensation to aging Armenian Genocide victims and their heirs, it is necessary that this act take effect immediately.

CHAPTER 544

An act to add Section 1203.098 to the Penal Code, relating to domestic violence.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 1203.098 is added to the Penal Code, to read:

1203.098. (a) Unless otherwise provided, a person who works as a facilitator in a batterers' intervention program that provides programs for batterers pursuant to subdivision (c) of Section 1203.097 shall complete the following requirements before being eligible to work as a facilitator in a batterers' intervention program:

(1) Forty hours of core-basic training. A minimum of eight hours of this instruction shall be provided by a shelter-based or shelter-approved trainer. The core curriculum shall include the following components:

(A) A minimum of eight hours in basic domestic violence knowledge focusing on victim safety and the role of domestic violence shelters in a community-coordinated response.

(B) A minimum of eight hours in multicultural, cross cultural, and multiethnic diversity and domestic violence.

(C) A minimum of four hours in substance abuse and domestic violence.

(D) A minimum of four hours in intake and assessment, including the history of violence and the nature of threats and substance abuse.

(E) A minimum of eight hours in group content areas focusing on gender roles and socialization, the nature of violence, the dynamics of power and control, and the affects of abuse on children and others as required by Section 1203.097.

(F) A minimum of four hours in group facilitation.

(G) A minimum of four hours in domestic violence and the law, ethics, all requirements specified by the probation department pursuant to Section 1203.097, and the role of batterers' intervention programs in a coordinated-community response.

(H) Any person that provides documentation of coursework, or equivalent training, that he or she has satisfactorily completed, shall be exempt from that part of the training that was covered by the satisfactorily completed coursework.

(I) The coursework that this person performs shall count towards the continuing education requirement.

(2) Fifty-two weeks or no less than 104 hours in six months, as a trainee in an approved batterers' intervention program with a minimum

of a two-hour group each week. A training program shall include at least one of the following:

(A) Cofacilitation internship in which an experienced facilitator is present in the room during the group session.

(B) Observation by a trainer of the trainee conducting a group session via a one-way mirror.

(C) Observation by a trainer of the trainee conducting a group session via a video or audio tape.

(D) Consultation and or supervision twice a week in a six-month program or once a week in a 52-week program.

(3) An experienced facilitator is one who has the following qualifications:

(A) Documentation on file, approved by the agency, evidencing that the experienced facilitator has the skills needed to provide quality supervision and training.

(B) Documented experience working with batterers for three years, and a minimum of two years working with batterer's groups.

(C) Documentation by January 1, 2003, of coursework or equivalent training that demonstrates satisfactory completion of the 40-hour basic-core training.

(b) A facilitator of a batterers' intervention program shall complete, as a minimum continuing education requirement, 16 hours annually of continuing education in either domestic violence or a related field with a minimum of 8 hours in domestic violence.

(c) A person or agency with a specific hardship may request the probation department, in writing, for an extension of time to complete the training or to complete alternative training options.

(d) (1) An experienced facilitator, as defined in paragraph (3) of subdivision (a), is not subject to the supervision requirements of this section, if they meet the requirements of subparagraph (C) of paragraph (3) of subdivision (a).

(2) This section does not apply to a person who provides batterers' treatment through a jail education program if the person in charge of that program determines that such person has adequate education or training in domestic violence or a related field.

(e) A person who satisfactorily completes the training requirements of a county probation department whose training program is equivalent to or exceeds the training requirements of this act shall be exempt from the training requirements of this 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 545

An act to amend Sections 1203.1d and 1214 of the Penal Code, and to amend Section 19280 of the Revenue and Taxation Code, relating to fines.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 1203.1d of the Penal Code is amended to read:

1203.1d. In determining the amount and manner of disbursement under an order made pursuant to this code requiring a defendant to make reparation or restitution to a victim of a crime, to pay any money as reimbursement for legal assistance provided by the court, to pay any cost of probation or probation investigation, to pay any cost of jail or other confinement, or to pay any other reimbursable costs, the court, after determining the amount of any fine and penalty assessments, and a county financial evaluation officer when making a financial evaluation, shall first determine the amount of restitution to be ordered paid to any victim, and shall then determine the amount of the other reimbursable costs.

If payment is made in full, the payment shall be apportioned and disbursed in the amounts ordered by the court.

If reasonable and compatible with the defendant's financial ability, the court may order payments to be made in installments.

With respect to installment payments and amounts collected by the Franchise Tax Board pursuant to Section 19280 of the Revenue and Taxation Code and subsequently transferred by the Controller pursuant to Section 19282 of the Revenue and Taxation Code, the board of supervisors shall establish the priorities of payment, first between fines, penalty assessments, and reparation or restitution, and then between other reimbursable costs. The board of supervisors may establish priorities of payment between orders or parts of orders in cases where defendants have been ordered to pay more than one court order.

Documentary evidence, such as bills, receipts, repair estimates, insurance payment statements, payroll stubs, business records, and similar documents relevant to the value of the stolen or damaged

property, medical expenses, and wages and profits lost shall not be excluded as hearsay evidence.

SEC. 2. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally. Any portion of a restitution fine that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the State Board of Control pursuant to this section. Notwithstanding any other provision of law prohibiting disclosure, the state, as defined in Section 900.6 of the Government Code, a local public entity, as defined in Section 900.4 of the Government Code, or any other entity, may provide the State Board of Control any and all information to assist in the collection of unpaid portions of a restitution fine for terminated probation or parole cases. For purposes of the preceding sentence, ''state, as defined in Section 900.6 of the Government Code,'' and ''any other entity'' shall not include the Franchise Tax Board.

(b) In any case in which a defendant is ordered to pay restitution, the order to pay restitution (1) is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be fully enforceable by a victim as if the restitution order were a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. The court also shall provide this information to the district attorney upon request in connection with an investigation or prosecution involving perjury or the veracity of the information contained within the defendant's financial disclosure. In addition, upon request, the court shall provide the State Board of Control with a certified copy of any order imposing a restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. A victim shall have access to all resources available under the law to enforce the restitution order, including, but not limited

to, access to the defendant's financial records, use of wage garnishment and lien procedures, information regarding the defendant's assets, and the ability to apply for restitution from any fund established for the purpose of compensating victims in civil cases. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the victim pursuant to this section. Victims and the State Board of Control shall inform the court whenever an order to pay restitution is satisfied.

(c) Except as provided in subdivision (d), and notwithstanding the amount in controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or restitution fine that was imposed pursuant to Section 1202.4 by a municipal court, or by the superior court acting pursuant to subdivision (d) of Section 1462, may be enforced in the same manner as a money judgment in a limited civil case.

(d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine or restitution ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994.

(e) (1) This section shall become operative on January 1, 2000, and shall be applicable to all courts, 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) of Section 1202.4.

(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 1202.4 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. 3. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior or municipal court of the State of California upon a person or any other entity that is due and payable in an amount totaling no less than two hundred fifty dollars ($250), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or

bicyclists, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the county or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board.

(2) For purposes of this subdivision:

(A) The amounts referred by the county or state under this section may include any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by counties or other state agencies.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

(C) The Franchise Tax Board shall establish criteria for referral, which shall include setting forth a minimum dollar amount subject to referral and collection.

(b) For the period January 1, 1995, to December 31, 1997, inclusive, for purposes of a manageable implementation and evaluation of the program authorized by this article, the Franchise Tax Board may limit referrals to nine counties.

(c) Upon written notice to the debtor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) and any interest thereon, including any interest on the amount referred under subdivision (a) that accrued prior to the date of referral, shall be treated as final and due and payable to the State of California, and shall be collected from the obligor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(d) (1) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this article in the same manner and with the same force and effect and to the full extent as

if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with this article or is not relevant to this article.

(2) Any information, information sources, or enforcement remedies and capabilities available to the court or the state referring to the amount due described in subdivision (a), shall be available to the Franchise Tax Board to be used in conjunction with, or independent of, the information, information sources, or remedies and capabilities available to the Franchise Tax Board for purposes of administering Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(e) The activities required to implement and administer this part shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(f) For amounts referred for collection under subdivision (a), interest shall accrue at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521. When notice of the amount due includes interest and is mailed to the obligor and the amount is paid within 15 days after the date of notice, interest shall not be imposed for the period after the date of notice.

(g) In no event shall a collection under this article be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 4. (a) Notwithstanding paragraph (1) of subdivision (a) of Section 19280 of the Revenue and Taxation Code, restitution fines imposed by a superior or municipal court of the State of California upon a person or any other entity that are enforceable by the State Board of Control and are due and payable in an amount totaling no less than one hundred dollars ($100), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists may be referred by the State Board of Control to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board. The debt collection caseload may be limited based on the current capacity of the Franchise Tax Board.

(b) Subdivision (a) shall be implemented as a pilot project, subject to the approval of the Director of the Department of Finance.

(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. 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 546

An act to repeal Section 8101 of the Health and Safety Code, and to amend Section 594.3 of, and to add Section 594.35 to the Penal Code, relating to vandalism.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 8101 of the Health and Safety Code is repealed.

SEC. 2. Section 594.3 of the Penal Code is amended to read:

594.3. (a) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted or a cemetery is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

(b) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted or a cemetery, which is shown to have been committed by reason of the race, color, religion, or national origin of another individual or group of individuals and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

SEC. 3. Section 594.35 is added to the Penal Code, to read:

594.35. Every person is guilty of a crime and punishable by imprisonment in the state prison or by imprisonment in a county jail for not exceeding one year, who maliciously does any of the following:

(a) Destroys, cuts, mutilates, effaces, or otherwise injures, tears down, or removes any tomb, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post or railing, or any inclosure

for the protection of a cemetery or mortuary or any property in a cemetery or mortuary.

(b) Obliterates any grave, vault, niche, or crypt.

(c) Destroys, cuts, breaks or injures any mortuary building or any building, statuary, or ornamentation within the limits of a cemetery.

(d) Disturbs, obstructs, detains or interferes with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service, or an interment.

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 547

An act to add Section 8300 to the Education Code, relating to child care and development.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 8300 is added to the Education Code, to read:

8300. (a) The Legislature recognizes the importance of providing quality child care services. It is, therefore, the intent of the Legislature to assist counties in improving the retention of qualified child care employees who work directly with children who receive state subsidized child care services.

(b) The funds appropriated for the purposes of this section by paragraph (11) of schedule (b) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000), and that are described in subdivision (i) of Provision 7 of that item, shall be allocated to local child care and development planning councils based on the percentage of state-subsidized, center-based child care funds received in that county, and shall be used to address the retention of qualified child care employees in state-subsidized child care centers. Additionally, funds may be allocated annually thereafter for these purposes.

(c) The State Department of Education shall develop guidelines for use by local child care and development planning councils in developing county plans for the expenditure of funds allocated pursuant to this section. These guidelines shall be consistent with the department's assessment of the current needs of the subsidized child care workforce, and shall be subject to the approval of the Secretary for Education and the Department of Finance. Any county plan developed pursuant to these guidelines shall be approved by the State Department of Education prior to the allocation of funds to the local child care and development planning council.

(d) Funds provided to a county for the purposes of this section shall be used in accordance with the plan approved pursuant to subdivision (c). A county with an approved plan may retain up to 1 percent of the county's total allocation made pursuant to this section for reimbursement of administrative expenses associated with the planning process.

(e) The Superintendent of Public Instruction shall provide an annual report, no later than April 10 of each year, to the Legislature, the Secretary for Education, the Department of Finance, and the Governor that includes, but is not limited to, a summary of the distribution of the funds by county and a description of the use of the funds.

CHAPTER 548

An act to add Sections 8290, 8290.1, and 8290.2 to the Education Code, relating to child care facilities.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 8290 is added to the Education Code, to read:

8290. The Legislature finds and declares the following:

(a) There is a serious shortage of quality child day care facilities throughout the state.

(b) It is in the interest of the state's children and families, and the state's economic growth, to encourage the expansion of existing child day care facilities by assisting communities and interested government and private entities to finance child day care facilities.

(c) In addition to regional resource centers described in Provision 7(d) of Item 6110-196-0001 of the Budget Act of 1999, which focus on developing child care capacity in underserved areas of the state, there is

a need to access capital for facilities on a systematic basis, especially to use limited public sector funds to leverage a greater private sector role in financing child day care facilities. The Legislature finds and declares that a financial intermediary could fill this role and support the regional resource centers and other local entities that work with potential providers by functioning as a centralized repository of training, best practices, and expertise on facilities financing.

SEC. 2. Section 8290.1 is added to the Education Code, to read:

8290.1. (a) The Superintendent of Public Instruction shall contract with a nonprofit organization to serve as a financial intermediary. The nonprofit organization shall have staff who have expertise in financing and capital expansion, are knowledgeable about the child care field, and have the ability to develop and implement a plan to increase the availability of financing to renovate, expand, and construct child day care facilities, both in day care centers and family day care homes.

(b) The financial intermediary selected by the Superintendent of Public Instruction shall undertake activities designed to increase funds available from the private and public sectors for the financing of child day care facilities. These activities shall include, but are not limited to, all of the following:

(1) Soliciting capital grants and program-related investments from foundations and corporations.

(2) Building partnerships with foundations and corporations.

(3) Developing lending commitments, linked deposits, and other financing programs with conventional financial institutions.

(4) Coordinating private sources of capital with existing public sector sources of financing for child day care facilities, including, but not limited to, the Department of Housing and Community Development and the California Infrastructure and Economic Development Bank.

(5) Coordinating financing efforts with the technical assistance provided by the regional resource centers described in Provision 7(d) of Item 6110-196-0001 of the Budget Act of 1999, and other local entities that work with potential providers.

(c) This section shall only be implemented to the extent that funds are appropriated for this purpose in the annual Budget Act.

SEC. 3. Section 8290.2 is added to the Education Code, to read:

8290.2. (a) Pursuant to funding made available in subdivision (d) of Provision 7 of Item 6110-196-001 of the Budget Act of 2000, the Superintendent of Public Instruction shall contract for a financial intermediary, pursuant to Section 8290.1, by January 1, 2001.

(b) The financial intermediary, during its first six months of operation, shall do all of the following:

(1) Create and publicize an 800 technical assistance telephone service number.

(2) Provide financial development training for agencies at the local level including, but not limited to, Regional Resource Centers, Resource and Referral Agencies, and local child care planning councils that are assisting existing and potential providers renovate, expand, build or purchase facilities.

(3) Determine the financing barriers and impediments to the development of child care facilities, especially in underserved areas of the state.

(4) Identify funding sources that may be leveraged by the state, and partnerships with the philanthropic and corporate sectors that may be established, with the goal of increasing funding available for child care facilities for California's CalWORKs and low-income families.

(c) The financial intermediary shall prepare a report with recommendations on the above for the Superintendent of Public Instruction by August 31, 2001. The Superintendent of Public Instruction shall submit the report, along with any State Department of Education comments or recommendations to the policy and fiscal committees of the Legislature and to the Governor by September 30, 2001.

CHAPTER 549

An act to add Section 1596.8712 to the Health and Safety Code, relating to child care facilities.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. It is the intent of the Legislature:

(a) To protect children in licensed child day care facilities from individuals with criminal backgrounds, who may pose a risk to the health and safety of children.

(b) To protect the health and safety of children, by notifying parents and guardians who utilize the services of a licensed family day care home whenever an individual or individuals have been excluded by the State Department of Social Services, pursuant to subdivision (a) of Section 1596.8897, from working or being present in the facility.

(c) To provide parents and guardians with the ability to make informed decisions regarding the health and safety of their children.

(d) To enable parents and guardians to monitor the presence of individuals who are not authorized to be present at these facilities, so that violations may be reported to and investigated by the department.

SEC. 2. Section 1596.8712 is added to the Health and Safety Code, to read:

1596.8712. (a) (1) Whenever an individual is excluded by the department from a licensed family day care home, the department shall prepare and provide to the licensed family day care home from which the individual was excluded, within 45 days, an addendum to the notification of parents' rights form required by Section 102419 of Title 22 of the California Code of Regulations, clearly identifying the name or names of any individual or individuals who have been excluded from the licensed family day care home. The addendum shall also identify the existence and location of a public file maintained by the department explaining the reason for the exclusion.

(2) The department shall revise the addendum if the excluded individual is reinstated by the department pursuant to Section 11522 of the Government Code.

(b) (1) Immediately upon receipt of an addendum from the department, the licensee shall provide the parent or guardian of each child under the licensee's care or supervision with a copy of the addendum identifying the excluded individual or individuals. The licensee shall also obtain the signature of the parent or guardian indicating that the parent or guardian has received a copy of the addendum. A signed copy of the addendum shall be provided to the parent or guardian, and the original signed addendum shall be retained by the licensed day care home provider, and provided to the department during the regular inspection of the home, or at any time upon the request of the department.

(2) This section shall apply to all children currently under the licensee's care or supervision, and to all children who come under the licensee's care or supervision after the implementation of this section.

(c) During its regular inspection of all licensed family day care homes where an individual or individuals have been excluded, the department shall verify that the licensee has obtained a signature from the parent or guardian of each child under the licensee's care or supervision indicating that the parent or guardian has been provided with the addendum identifying the excluded individual or individuals. The department may also request the signed addenda from the licensee at any time.

(d) A licensee shall be assessed an immediate civil penalty of one hundred dollars ($100) per violation, for failure to do any of the following:

(1) Provide a copy of the addendum to a parent or guardian of any child under the provider's care or supervision.

(2) Obtain a parent or guardian's signature indicating he or she has been provided with the addendum.

(3) Provide signed addenda to the department, when requested for all children under the provider's care.

(e) Failure to comply with this section shall constitute grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886.

(f) This section shall apply to any family day care home from which an individual is excluded after January 1, 2001.

(g) The department shall promulgate regulations and policies, as necessary, to implement the provisions of this section by January 1, 2002.

CHAPTER 550

An act to add Section 115736 to the Health and Safety Code, relating to playground safety.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. (a) The Legislature finds and declares that in 1997, the United States Consumer Product Safety Commission issued its latest edition of the handbook for public playground safety as a detailed working blueprint to help local communities, schools, day care centers, corporations, and other groups to build safe public playgrounds. Because many factors may affect playground safety, the commission has stated that guidelines, rather than mandatory rules, are appropriate. However, in 1990, the Legislature passed legislation, signed into law by Governor Deukmejian, requiring the State Department of Health Services to adopt mandatory minimum safety requirements for public playgrounds that are ''at least as protective as the guidelines in the handbook for public playground safety produced by the United States Consumer Product Safety Commission...and shall include more protective requirements where the State Department of Health Services finds those guidelines will provide inadequate protection.'' The 1990 legislation specified that there should be special provisions for playgrounds in day care settings.

(b) It is the intent of the Legislature to enact legislation to require the State Department of Social Services to adopt regulations for playground

safety that include special provisions for playgrounds in child care centers.

SEC. 2. Section 115736 is added to the Health and Safety Code, to read:

115736. (a) The State Department of Social Services shall convene a working group to develop recommendations for minimum safety requirements for playgrounds at child care centers.

(b) The working group shall include, but not be limited to, child care center operators, including representatives of the Professional Association for Childhood Education, the California Child Care Health Program, the Children's Advocacy Institute, the State Department of Health Services, and certified playground inspectors.

(c) The working group shall use the national guidelines published by the United States Consumer Product Safety Commission and those regulations adopted pursuant to this article as a reference in developing its recommendations. However, the Department of Social Services shall determine minimum safety requirements that are protective of child health on playgrounds at child care centers.

(d) The working group shall submit its playground safety recommendations to the State Department of Social Services by September 1, 2001.

(e) The working group shall submit its recommendations to the Legislature by November 1, 2001.

CHAPTER 551

An act to amend Section 798.33 of, and to add Section 1360.5 to, the Civil Code, relating to civil law.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 798.33 of the Civil Code is amended to read:

798.33. (a) No lease agreement entered into, modified, or renewed on or after January 1, 2001, shall prohibit a homeowner from keeping at least one pet within the park, subject to reasonable rules and regulations of the park. This section may not be construed to affect any other rights provided by law to a homeowner to keep a pet within the park.

(b) A homeowner shall not be charged a fee for keeping a pet in the park unless the management actually provides special facilities or services for pets. If special pet facilities are maintained by the

management, the fee charged shall reasonably relate to the cost of maintenance of the facilities or services and the number of pets kept in the park.

(c) For purposes of this section, ''pet'' means any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the management and the homeowner.

SEC. 2. Section 1360.5 is added to the Civil Code, to read:

1360.5. (a) No governing documents shall prohibit the owner of a separate interest within a common interest development from keeping at least one pet within the common interest development, subject to reasonable rules and regulations of the association. This section may not be construed to affect any other rights provided by law to an owner of a separate interest to keep a pet within the development.

(b) For purposes of this section, ''pet'' means any domesticated bird, cat, dog, aquatic animal kept within an aquarium, or other animal as agreed to between the association and the homeowner.

(d) If the association implements a rule or regulation restricting the number of pets an owner may keep, the new rule or regulation shall not apply to prohibit an owner from continuing to keep any pet that the owner currently keeps in his or her separate interest if the pet otherwise conforms with the previous rules or regulations relating to pets.

(e) For the purposes of this section, ''governing documents'' shall include, but are not limited to, the conditions, covenants, and restrictions of the common interest development, and the bylaws, rules, and regulations of the association.

(f) This section shall become operative on January 1, 2001, and shall only apply to governing documents entered into, amended, or otherwise modified on or after that date.

CHAPTER 552

An act to add and repeal Section 33334.25 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 33334.25 is added to the Health and Safety Code, to read:

33334.25. (a) The Legislature finds and declares all of the following:

(1) The transfer of funds to a joint powers authority and the use of pooled funds within the housing market area of the participating agencies for the purpose of providing affordable housing is of benefit to the project area producing the tax increment.

(2) The cost and availability of land, geophysical and environmental limitations, community patterns, and the lack of financing make the availability of affordable housing more difficult in some communities.

(3) The cooperation of local agencies and the use of pooled funds will result in more resources than would otherwise be available for affordable housing.

(b) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single Metropolitan Statistical Area (MSA) may create and participate in a joint powers authority for the purpose of pooling their low- and moderate-income housing funds for affordable housing uses. Agencies may transfer a portion of their housing funds to a joint powers authority for use by the joint powers authority pursuant to this section. The joint powers authority may determine the kinds of housing projects or activities to be assisted, consistent with this section. The joint powers authority may loan, grant, or advance transferred housing funds from participating agencies to a receiving entity for any eligible housing development within the participating agency's jurisdiction, subject to the requirements of this section. In addition, the agreement may authorize the joint powers authority to issue bonds and to use the pooled funds to leverage other funds to assist eligible developments, including loans from private institutions and assistance provided by other governmental agencies.

(c) Each of the following conditions shall be met and described in a mutually binding agreement between the joint powers authority and each participating agency:

(1) The community of each participating agency shall have adopted up-to-date housing elements pursuant to Article 10.6 (commencing with Section 65580) of Division 1 of Title 7 of the Government Code, and the housing elements have been determined to be in compliance with the law by the Department of Housing and Community Development.

(2) The community of each participating agency shall have met, in its current or previous housing element cycle, 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 50025.5.

(3) Each participating agency shall hold, at least 45 days prior to the transfer of funds to the joint powers authority, a public hearing, after providing notice pursuant to Section 6062 of the Government Code to solicit public comments on the draft agreement.

(4) No housing funds shall be transferred from a project area that has an indebtedness to its low- and moderate-income housing fund pursuant to Section 33334.6.

(5) No housing funds shall be transferred from an agency that has not met its need for replacement housing pursuant to Section 33413, unless the agency has encumbered and contractually committed sufficient funds to meet those requirements.

(6) Pooled funds shall be used within the participating agencies' jurisdictions.

(7) The agreement shall require compliance by the joint powers authority with the provisions of this section.

(8) The joint powers authority shall ensure that the funds it receives are used in accordance with the requirements of this section.

(9) Funds transferred by an agency to a joint powers authority pursuant to this section shall be expended or encumbered by the joint powers authority for the purposes of this section within two years of the transfer. Transferred funds not so expended or encumbered by the joint powers authority within two years after the transfer shall be returned to the original agency and shall be deemed excess surplus funds as provided in, and subject to, the requirements of Sections 33334.10 and 33334.12. Excess surplus funds held by an agency may not be transferred to a joint powers authority.

(10) The joint powers authority shall prepare and submit an annual report to the department that documents the amount of housing funds received and expended or allocated for specific housing assistance activities consistent with Sections 33080.4.

(d) Each of the following conditions shall be met and described in a mutually binding contract between the joint powers authority and a receiving entity:

(1) Pooled housing funds may only be used to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to very low or low income households. Units assisted with pooled funds shall remain available at affordable housing costs in accordance with subdivision (f) of Section 33334.3.

(2) Except as provided in this section, pooled housing funds may not be used in any way that is inconsistent with the requirements of Section 33334.3. Pooled housing funds may not be used to pay for planning and administrative costs, offsite improvements associated with a housing project, or fees or exactions levied solely for development projects constructed, substantially rehabilitated, or preserved with pooled funds. The receiving entity 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.

(3) The joint powers authority shall make findings, based on substantial evidence on the record, that each proposed use of pooled funds will not exacerbate racial or economic segregation.

(4) The Department of Housing and Community Development has evaluated each proposed use of pooled funds to construct, substantially rehabilitate, or preserve the affordability of housing and determined that the proposed use is in compliance with this section. In considering whether a proposed use of funds will exacerbate racial or economic segregation, the department shall consider all of the following:

(A) The record of participating jurisdictions in meeting their share of the regional need for low and very low income households allocated to the jurisdiction pursuant to Section 65584 of the Government Code.

(B) The distance of the proposed housing from a redevelopment area from which pooled funds originated.

(C) The income and ethnicity of the residents of the census tract from which the pooled funds originated and in which the housing will be located.

(D) The housing need and availability of sufficient site for housing within jurisdictions from which pooled funds originated.

(e) As used in this section, the following terms shall apply:

(1) ''Housing funds'' mean funds in or from the low- and moderate-income housing fund established by an agency pursuant to Section 33334.3.

(2) ''Joint powers authority'' means a joint powers authority created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purposes of receiving and using housing funds pursuant to this section.

(3) ''Receiving entity'' means any person, partnership, joint venture, corporation, governmental body, or other organization receiving housing funds from a joint powers authority for the purpose of providing housing pursuant to this section.

(f) On or after January 1, 2008, no participating agency shall create a new joint powers authority or transfer funds to an existing joint powers authority pursuant to this section, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2010, deletes or extends that date.

CHAPTER 553

An act to amend Sections 50083, 50086, 50960, and 51331 of, and to add Section 50076.6 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 50076.6 is added to the Health and Safety Code, to read:

50076.6. ''Loan,'' for purposes of provisions relating to the agency, means an obligation to repay funds advanced by the agency for the purpose of financing housing that is evidenced by a promissory note or other instrument in writing and that may or may not be secured by real or personal property.

SEC. 2. Section 50083 of the Health and Safety Code is amended to read:

50083. ''Mortgage'' means a mortgage, deed of trust, or other instrument that may be a lien on real property. ''Mortgage'' includes the note secured by such an instrument.

SEC. 3. Section 50086 of the Health and Safety Code is amended to read:

50086. ''Mortgage loan'' means a loan that is secured by a mortgage and is made for financing, including refinancing of existing mortgage obligations as authorized by regulation of the agency, to create or preserve the long-term affordability of a housing development or a residential structure in the state, or a buy-down mortgage loan secured by a mortgage as authorized by regulation of the agency, of an owner-occupied unit in this state.

SEC. 4. Section 50960 is added to the Health and Safety Code, to read:

50960. A loan document for a loan that is not secured by real property and is made to a person, not including a firm, association, partnership, organization, corporation, limited liability company, or other group, however formed, shall state that the loan is a recourse obligation and that the personal property of the borrower may be subject to or sold pursuant to a lien in order to pay the obligation.

SEC. 5. Section 51331 of the Health and Safety Code is amended to read:

51331. Subject only to the limitations prescribed in this chapter, the agency, in addition to any other power conferred by this part with respect to multifamily rental housing and housing developments, may make or undertake commitments to make loans to housing sponsors to finance

the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing. For this purpose, the agency shall enter into regulatory contracts and other agreements with housing sponsors receiving loans pursuant to this chapter to ensure compliance with this chapter.

CHAPTER 554

An act to add Section 798.73.5 to the Civil Code, relating to mobilehome parks.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 798.73.5 is added to the Civil Code, to read:

798.73.5. (a) In the case of a sale or transfer of a mobilehome that will remain in the park, the management may only require repairs or improvements to the mobilehome, its appurtenances, or an accessory structure that meet all of the following conditions:

(1) Except as provided by Section 798.83, the repair or improvement is to the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management.

(2) The repair or improvement is based upon or is required by a local ordinance or state statute or regulation relating to mobilehomes, or a rule or regulation of the mobilehome park that implements or enforces a local ordinance or a state statute or regulation relating to mobilehomes.

(3) The repair or improvement relates to the exterior of the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management.

(b) The management, in the case of sale or transfer of a mobilehome that will remain in the park, shall provide a homeowner with a written summary of repairs or improvements that management requires to the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management no later than 10 business days following the receipt of a request for this information, as part of the notice required by Section 798.59. This summary shall include specific references to park rules and regulations, local ordinances, and state statutes and regulations relating to mobilehomes upon which the request for repair or improvement is based.

(c) The provisions of this section enacted at the 1999–2000 Regular Session of the Legislature are declarative of existing law as they pertain

to allowing park management to enforce park rules and regulations; these provisions specifically limit repairs and improvements that can be required of a homeowner by park management at the time of sale or transfer to the same repairs and improvements that can be required during any other time of a residency.

CHAPTER 555

An act to amend Sections 18050.7 and 18070.3 of the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 18050.7 of the Health and Safety Code is amended to read:

18050.7. In addition to any other requirements imposed by this part or regulations of the department, the department shall not grant an initial manufactured home or mobilehome dealer's license to any applicant who has not satisfied all of the education and experience requirements contained in this section. If the applicant for a manufactured home or mobilehome dealer's license is a partnership, corporation, or other business entity, each person designated to participate in the direction, control, or management of the sales operation of the entity shall meet all of the education and experience requirements contained in this section prior to issuance of a manufactured home or mobilehome dealer's license by the department.

(a) The applicant either shall have held a valid manufactured home or mobilehome salesperson's license issued by the department for at least two years within the five-year period immediately preceding the application for an initial manufactured home or mobilehome dealer's license, or shall meet any of the following criteria:

(1) Has acquired a four-year degree from an accredited college or university.

(2) Has held a valid manufactured home or mobilehome salesperson's license issued by the department for one year in the past three years and acquired an associate of arts or associate of science degree from an accredited college.

(3) Has been the officer of the corporation, owner or partner of, or has held a management position relating to finance, marketing, administration, or general management with, a manufacturer of

manufactured housing in any state for two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license.

(4) Holds a management position with a housing authority, redevelopment agency, or nonprofit housing corporation which is developing individual lots, a subdivision, or a park for the placement of manufactured homes or mobilehomes.

(5) Has been an escrow, title, or loan officer of a land title company, bank, savings and loan association, or mortgage company in a capacity directly related to financing or conveying title to manufactured housing for two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license.

(6) Has been a subdivider, developer, or contractor in any state for at least two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license, during which time the applicant developed or sold 10 lots or the equivalent.

(7) Has been the officer of a corporation, the owner or partner of a mobilehome park or mobilehome park management company in any state for at least two years within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license.

(8) Has held a manufactured home or mobilehome dealer's license from a state other than California for at least four years within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license, and has completed 24 hours of continuing education class in California, in addition to the preliminary education requirement of subdivision (b).

(9) Has previously held a valid manufactured home or mobilehome dealer's license issued by the department, or was a person designated to participate in the direction, control, or management of the sales operations of a partnership, corporation, or other business entity that previously held a valid manufactured home or mobilehome dealer's license issued by the department and the license has never been revoked for cause, and never reissued, or suspended for cause and the terms of suspension have not been fulfilled.

(10) Has any combination of the above experience that would provide at least two years of experience within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license. The two years of experience shall not be concurrent.

(b) The applicant shall have met the applicable preliminary education requirements for the manufactured home or mobilehome dealer's license under paragraph (5) of subdivision (b) of Section 18056.2.

(c) The department may adopt regulations, as necessary, to implement this section.

SEC. 2. Section 18070.3 of the Health and Safety Code is amended to read:

18070.3. (a) When any person (1) who has purchased a manufactured home for a personal or family residential or investment purpose or (2) who has sold a manufactured home for a personal or family residential or investment purpose, obtains a final judgment in any court of competent jurisdiction against any manufactured home dealer, salesperson, or other seller or purchaser, and the judgment is based on the grounds of failure to honor warranties or guarantees, or for fraud, or for willful misrepresentation of the kind or quality of the product sold or purchased, or for conversion, arising directly out of any transaction which occurs on or after January 1, 1985, the person, upon termination of all proceedings, including appeals, may file a claim with the department for an order directing payment out of the fund of the amount of actual and direct loss in the transaction.

(b) If any person either purchases a manufactured home used for a personal or family residential or investment purpose from, or sells a manufactured home used for a personal or family residential or investment purpose to, a licensee who is or has been the subject of a bankruptcy proceeding, the person may file a claim with the department for an order directing payment out of the fund of the actual and direct loss in the transaction based on the licensee's failure to honor warranties or guarantees, or for fraud, or for willful misrepresentation of the kind or quality of product purchased or sold, or for conversion, arising directly out of any transaction that occurs on or after January 1, 1985.

(c) No person applying for recovery from the fund shall apply for judgment on any bond issued prior to January 1, 1985.

(d) ''Actual and direct loss,'' for purposes of this chapter, includes:

(1) The amount of the actual and direct loss, plus court costs and reasonable attorney fees incurred in pursuit of the judgment, not to exceed 15 percent of the amount of the judgment, if the claim is based on a judgment.

(2) Only the amount of the actual and direct loss, if the claim is not based on a judgment.

(e) (1) The total amount of the claim shall not exceed the amount of actual and direct loss that remains unreimbursed from any source.

(2) The maximum payment ordered under this section, with respect to any one sales transaction on a new or used manufactured home, shall be the amount of the judgment plus attorney's fees or, in the case of a bankrupt licensee, the amount of the actual and direct loss, as determined by the department based on information in the possession of the department and information provided by the claimant or claimants. In

no event shall the actual payments exceed seventy-five thousand dollars (75,000).

(3) Notwithstanding any other provision of this chapter, a person who purchases or sells a manufactured home for an investment purpose may receive payment from the fund for that purpose only once. A person who has received payment from the fund for the purchase or sale of a manufactured home for an investment purpose shall henceforth be ineligible to make a claim under this chapter, either as a natural person or as a member of a partnership, as an officer or director of a corporation, as a member of a marital community, or in any other capacity.

(f) For the purposes of this chapter:

(1) ''Claimant'' does not include a person holding a lien on, or a person possessing a secondary interest in, a manufactured home.

(2) ''Conversion'' means the unlawful appropriation of the property of another.

(g) Prior to payment of any claim against the fund, the claimant or claimants shall have first:

(1) If the claim is based on a final judgment, executed judgment against all the assets of the judgment debtor or presented evidence satisfactory to the department that the debtor is judgment proof.

(2) If the claim is not based on a final judgment, presented evidence satisfactory to the department that the licensee is or has been the subject of bankruptcy proceedings and, for purposes of any civil litigation or claims in bankruptcy proceedings, has assigned to the department any interest in the actual and direct loss described in subdivision (d) in the amount that the claimant or claimants recover from the fund.

(h) A claim against the fund shall be filed with the department in accordance with the following:

(1) If the claim is based on a final judgment, within one year from the date of the judgment.

(2) If the claim is not based on a final judgment, within one year from the termination of bankruptcy proceedings or one year from the date of sale as determined by subdivision (a) of Section 18070.2, whichever event occurs later.

(i) When any person files a claim for an order directing payment from the fund, the department shall conduct a review of the application and other pertinent information in its possession, and it may issue an order directing payment out of the fund as provided in subdivisions (a) to (h), inclusive, subject to the limitations of subdivisions (a) to (h), inclusive, if the claimant or claimants show all of the following:

(1) That he or she is not a spouse of the judgment debtor, the bankrupt licensee, or a person representing the spouse.

(2) That he or she is making an application within the time specified in subdivision (h).

(3) That the claimant has satisfied the applicable requirements of subdivision (g).

(4) That, if the claimant is a seller of a manufactured home used by the seller for personal, family, or household purposes, the claimant made a good faith effort to adequately secure the debt resulting from the sale of the manufactured home and with respect to which the claim is made. For purposes of this paragraph, a good faith effort to secure the debt may be demonstrated by, but shall not be limited to, providing the department with a promissory note signed by the debtor and which, pursuant to the terms thereof, is secured by collateral with a reasonable value at least equal to the debt evidenced by the promissory note.

(j) Upon an order of the department directing that payment be made out of the fund, the Controller is authorized to draw a warrant for the payment of the amount of the claim approved by the department pursuant to this section.

(k) In dispersing moneys from the fund, the department is authorized to give priority to claimants who have attempted to purchase or sell a manufactured home for a personal or family residential purpose.

(*l*) Prior to July 1, 1995, the department shall completely process and render determinations upon all claims to the fund that were received by the department prior to January 1, 1993. All claims to the fund that are received on or after January 1, 1993, shall be processed, and a determination made, within one year of the original date of application.

(m) The department, upon request by a Member of the Legislature, shall provide the following information: the number of claims to the fund, number of claims processed and decided within one year of their application date, the amount of fund money paid to claimants, and the amount of fund money allocated for the department's costs.

CHAPTER 556

An act to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) When a developer of housing proposes a housing development within the jurisdiction of the local government, the city,

county, or city and county shall provide the developer incentives for the production of lower income housing units within the development if the developer meets the requirements set forth in subdivisions (b) and (c). The city, county, or city and county shall adopt an ordinance that shall specify the method of providing developer incentives.

(b) When a developer of housing agrees or proposes to construct at least (1) 20 percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (2) 10 percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.3 of the Civil Code, a city, county, or city and county shall either (1) grant a density bonus and at least one of the concessions or incentives identified in subdivision (h) unless the city, county, or city and county makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c), or (2) provide other incentives of equivalent financial value based upon the land cost per dwelling unit.

(c) A developer shall agree to and the city, county, or city and county shall ensure continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income. If a city, county, or city and county does not grant at least one additional concession or incentive pursuant to paragraph (1) of subdivision (b), the developer shall agree to and the city, county, or city and county shall ensure continued affordability for 10 years of all lower income housing units receiving a density bonus.

(d) A developer may submit to a city, county, or city and county a preliminary proposal for the development of housing pursuant to this section prior to the submittal of any formal requests for general plan amendments, zoning amendments, or subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of the procedures under which it will comply with this section. The city,

county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) The housing developer shall show that the waiver or modification is necessary to make the housing units economically feasible.

(f) For the purposes of this chapter, ''density bonus'' means a density increase of at least 25 percent, unless a lesser percentage is elected by the developer, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the developer to the city, county, or city and county. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 20 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(g) ''Housing development,'' as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, ''housing development'' also includes either (1) a project to substantially rehabilitate and convert an existing commercial building to residential use, or (2) the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(h) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(i) If a developer agrees to construct both 20 percent of the total units for lower income households and 10 percent of the total units for very low income households, the developer is entitled to only one density bonus and at least one additional concession or incentive identified in Section 65913.4 under this section although the city, city and county, or county may, at its discretion, grant more than one density bonus.

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 557

An act to add Section 14132.26 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. (a) It is the intent of the Legislature to develop options that allow elderly and disabled individuals maximum choice in determining their living arrangements, including the choice to remain in the least restrictive and most homelike environment as they age or grow frail.

(b) It is further the intent of the Legislature to ensure that elderly and disabled individuals have access to appropriate health care and personal assistance, regardless of their income level, health status, or choice of housing arrangement.

SEC. 2. Section 14132.26 is added to the Welfare and Institutions Code, to read:

14132.26. (a) The department shall develop a program that requires a waiver of federal law to test the efficacy of providing an assisted living benefit to beneficiaries under the Medi-Cal program. Assisted living benefits shall include, but are not limited to, the care and supervision activities specified in Section 1569.2 of the Health and Safety Code and Section 87101 of Title 22 of the California Code of Regulations, and other health-related services. The program developed pursuant to this section shall be known as the waiver program for purposes of this section. The department shall submit any necessary waiver applications or modifications to the medicaid state plan to the Health Care Financing Administration to implement the waiver program, and shall implement the waiver program only to the extent federal financial participation is available.

(b) The department shall develop the waiver program in conjunction with other state departments, consumers, consumer advocates, housing and service providers, and experts in the fields of gerontology, geriatric health, nursing services, and independent living.

(c) The assisted living benefit shall be designed to provide eligible individuals with a range of services that enable them to remain in the least restrictive and most homelike environment while receiving the medical and personal care necessary to protect their health and well-being. Benefits provided pursuant to this waiver program shall include only those not otherwise available under the state plan, and may include, but are not limited to, medicine management, coordination with a primary health care provider, and case management.

(d) (1) Eligible individuals shall be those who are eligible for the Medi-Cal program and are determined by the department to be eligible for placement in a nursing facility, as defined under subdivisions (c) and (d) of Section 1250 of the Health and Safety Code. Eligibility shall be based on an assessment of an individual's ability to perform functional and instrumental activities of daily living, as well as the individual's medical diagnosis and prognosis, and other criteria, including other Medi-Cal services that the beneficiary is receiving, as specified in the waiver.

(2) An eligible individual shall participate in the waiver program only if he or she is fully informed of the program and the nature of the assisted living benefit and indicates in writing his or her choice to participate.

(e) (1) The waiver program shall test the effectiveness of providing a Medi-Cal assisted living benefit through two service delivery approaches, as specified in paragraphs (2) and (3).

(2) Under the first model, an assisted living benefit shall be provided to residents of licensed residential care facilities. Facility participation in the program shall be determined by the department in conjunction with the State Department of Social Services and in accordance with the criteria for participation specified in the waiver. Under this model the facility operator shall be responsible for the provision of services allowed under the benefit, either directly or through contracts with other provider agencies, as permitted and specified in the waiver. During participation in the waiver program, residential care facilities shall comply with all terms and conditions of the waiver. The department and the State Department of Social Services, may, as determined necessary and appropriate, waive provisions contained in Division 2 (commencing with Section 1200) of the Health and Safety Code, subdivision (h) of Section 14132.95, and Title 22 of the California Code of Regulations for facilities providing services to waiver program participants.

(3) Under the second model, an assisted living benefit shall be provided to residents in publicly funded senior and disabled housing projects. Under this model an independent agency, pursuant to a contract with the department, shall be responsible for the provision of case management and other services to eligible individuals, as specified in the waiver.

(f) The department shall evaluate the effectiveness of the waiver program.

(1) The evaluation shall include, but not be limited to, participant satisfaction , health, and safety, the quality of life of the participant receiving the assisted living benefit, and demonstration of the cost neutrality of the waiver program as specified in federal guidelines.

(2) The evaluation shall estimate the projected savings, if any, in the budgets of state and local governments if the program was expanded statewide.

(3) The evaluation shall be submitted to the appropriate policy and fiscal committees of the Legislature on or before January 1, 2003.

(g) The department shall limit the number of participants in the waiver program during the initial three years of its operation to a number that will be statistically significant for purposes of the program evaluation and that meets any requirements of the federal Health Care Financing Administration, including a request to waive statewide implementation requirements for the waiver program during the initial years of evaluation.

(h) In implementing this section, the department may enter into contracts for the provision of essential administrative and other services.

Contracts entered into under this section may be on a noncompetitive bid basis, and shall be exempt from the requirements of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(i) The department shall not implement the waiver program specified in subdivision (a) if it will result in additional costs to the state.

(j) The waiver program shall be developed and implemented only to the extent that funds are appropriated for that purpose.

CHAPTER 558

An act to amend Section 9563 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 9563 of the Welfare and Institutions Code is amended to read:

9563. The department shall formulate criteria for approval and designation of local Multipurpose Senior Services Program sites. The criteria shall include, but need not be limited to, all of the following:

(a) Specifications for a social and health review team to evaluate older individuals and to ensure that continuity of social, economic, and health services is provided to maintain older individuals at the appropriate level of care.

(b) Development of social and health services necessary to maintain the older individual at the appropriate level of care.

(c) Specifications for the quality of the social and health services to be provided.

(d) Coordination and integration of the social and health services described in Section 9561.

(e) The number of local sites, which shall be consistent with the funds made available for purposes of this chapter.

(f) Coordination with local governmental and nonprofit agencies concerned with multipurpose senior services.

(g) Maximize utilization of local resources, including service provided by established community-based senior citizen organizations and information and referral networks.

(h) Specifications for the evaluation of the proposals submitted for the new local sites and for the evaluation of the local sites.

(i) Conditions for determining the need for procurement of existing sites. Notwithstanding any other provisions of law, the department is not required to procure existing sites by the competitive bidding process, unless it deems it in the best interests of the state to do so.

CHAPTER 559

An act to amend Section 13515 of the Penal Code and to amend Section 15610.53 of the Welfare and Institutions Code, relating to elder abuse.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 13515 of the Penal Code is amended to read:

13515. Every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties shall complete an elder and dependent adult abuse training course certified by the Commission on Peace Officer Standards and Training within 18 months of assignment to field duties. Completion of the course may be satisfied by telecourse, video training tape, or other instruction. The training shall, at a minimum, include all of the following subjects:

(a) Relevant laws.

(b) Recognition of elder and dependent adult abuse.

(c) Reporting requirements and procedures.

(d) Neglect of elders and dependent adults.

(e) Fraud of elders and dependent adults.

(f) Physical abuse of elders and dependent adults.

(g) Psychological abuse of elders and dependent adults.

(h) The role of the local adult protective services and public guardian offices.

SEC. 2. The Attorney General, in conjunction with the Health and Human Services Agency, shall establish a statewide elder and dependent adult abuse awareness media campaign. The Attorney General shall not expend any funds to establish this media campaign unless funds are expressly appropriated for the purposes of this section. No government or elected official shall appear, or be referenced, in the elder and dependent adult abuse awareness media campaign.

SEC. 3. Section 15610.53 of the Welfare and Institutions Code is amended to read:

15610.53. ''Mental suffering'' means fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult.

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 560

An act to amend Sections 10234.6 and 10234.95 of the Insurance Code, relating to long-term care insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 10234.6 of the Insurance Code is amended to read:

10234.6. (a) The commissioner shall, by June 1 of each year, jointly design the format and content of a consumer rate guide for long-term care insurance with a working group that includes representatives of the Health Insurance Counseling and Advocacy Program, the insurance industry, and insurance agents. The commissioner shall annually prepare the consumer rate guide for long-term care insurance that shall include, but not be limited to, the following information:

(1) A comparison of the different types of long-term care insurance and coverages available to California consumers.

(2) A premium history of each insurer that writes long-term care policies for all the types of long-term care insurance and coverages issued by the insurer in each state.

(b) The consumer rate guide to be prepared by the commissioner shall consist of two parts: a history of the rates for all policies issued in the United States on or after January 1, 1990, and a comparison of the

policies, benefits, and sample premiums for all policies currently being issued for delivery in California.

(1) For the rate history portion of the rate guide required by this section, the department shall collect, and each insurer shall provide to the department, all of the following information for each long-term care policy, including all policies, whether issued by the insurer or purchased or acquired from another insurer, issued in the United States on or after January 1, 1990:

(A) Company name.

(B) Policy type.

(C) Policy form identification.

(D) Dates sold.

(E) Date acquired (if applicable)

(F) Premium rate increases requested.

(G) Premium rate increases approved.

(H) Dates of premium rate increase approvals.

(I) Any other information requested by the department.

(2) For the policy comparison portion of the rate guide required by this section, the department shall collect, and each insurer shall provide to the department, the information needed to complete the following form, along with any other information requested by the department, for each long-term care policy currently issued for delivery in California, including all policies, whether issued by the insurer or purchased or acquired from another insurer:

INSURANCE COMPANY NAME	Policy Form Number
[List policy name for this form number, whether nursing home and residential care only, home care only, comprehensive, individual or group, partnership, tax or nontax qualified, all issue ages available, reimbursement or per diem.]	

Maximum Policy Benefit

[List all maximum benefit amounts in years offered and dollars.]

Nursing Home Daily Benefit Amount

[List range in which daily benefit is offered from minimum to maximum.]

Residential Care Daily Benefit Amount *

[List all percentage amounts for which residential care benefits are offered as a percentage of the nursing home daily benefit.]

Home Care Benefit Amount

[List all percentage amounts for which home care benefit are offered as a percentage of the daily nursing home benefit. Specify whether paid as daily, weekly, or monthly.]

Elimination Period

[List all days and/or amounts in which elimination periods are offered. Specify how policy counts home care service days towards elimination period.]

Inflation Protection

[List all options offered for inflation protection adjustment.]

Waiver of Premium

[List all options for comprehensive, Nursing home only and home care only. Qualification rules.]

30** day elimination period
3 year maximum policy benefit / $109,000
* Other assumptions

Issue Age	$100 Daily Benefit Amount for Nursing Home & Home Care	$100 Daily Benefit Amount for Nursing Home & Home Care (with 5% compound Inflation Protection)
50		
55		
60		
65		
70		
75		
80		
Other ages may be available.		

30** day elimination period
Lifetime Benefit / Unlimited
* Other assumptions

Issue Age	$100 Daily Benefit Amount for Nursing Home & Home Care	$100 Daily Benefit Amount for Nursing Home & Home Care (with 5% compound Inflation Protection)
50		
55		
60		
65		
70		
75		
80		
Other ages may be available.		

* The residential care benefit is ____% of the daily nursing home benefit. If this is a comprehensive policy, the home care benefit is ____% of the daily nursing home benefit. If this is a home care only policy, the daily benefit is $ ____. [List the minimum amount available on the companies policy forms as a percentage of the daily nursing home benefit.]

Please refer to Section # for information on premium increases, if any, since 1990 for this company

[** Carrier may use 20-day elimation period if a 30-day elimination is not offered.]

If an insurer does not offer a policy for sale that fits the criteria set forth in the sample premium portion of the policy comparison section of the rate guide, the department shall include in that section of the form for that policy a statement explaining that a policy fitting that criteria is not offered by the insurer and that the consumer may seek, from an agent, sample premium information for the insurer's policy that most closely resembles the policy in the sample.

The department shall use the format set forth in this section for the policy comparison portion of the rate guide, unless the working group convened pursuant to subdivision (a) designs an alternative format and agrees that it should be used instead.

In compiling the policy comparison portion of the rate guide, the department shall separate the group policies from the individual policies available for sale so that group policies for all insurers appear together in the guide and individual policies for all insurers appear together in the guide.

The policy comparison portion of the rate guide shall contain a cross-reference for each policy form listed indicating the page in the rate guide where rate information on the policy form can be found.

(c) Insurers shall provide the information required pursuant to subdivision (b) no later than July 31 of each year, commencing in 2000.

(d) The consumer rate guide shall be published no later than December 1st of each year commencing in 2000, and shall be distributed using all of the following methods:

(1) Through Health Insurance Counseling and Advocacy Program (HICAP) offices.

(2) By telephone using the department's consumer toll-free telephone number.

(3) On the department's Internet web site.

(4) A notice in the Long-Term Care Insurance Personal Worksheet required by Section 10234.95.

(e) Notwithstanding any other provision of law, the data submitted by insurers to the department pursuant to this section are public records, and shall be open to inspection by members of the public pursuant to the procedures of the California Public Records Act. However, a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, is not subject to this subdivision.

SEC. 2. Section 10234.95 of the Insurance Code is amended to read:

10234.95. (a) Every insurer or other entity marketing long-term care insurance shall:

(1) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

(2) Train its agents in the use of its suitability standards.

(3) Maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(b) The agent and insurer shall develop procedures that take into consideration, when determining whether the applicant meets the standards developed by the insurer, the following:

(1) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage.

(2) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs.

(3) The value, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(c) (1) The issuer, and where an agent is involved, the agent, shall make reasonable efforts to obtain the information set out in subdivision (b). The efforts shall include presentation to the applicant, at or prior to application, of the ''Long-Term Care Insurance Personal Worksheet,'' contained in the Long-Term Care Insurance Model Regulations of the National Association of Insurance Commissioners. The personal worksheet used by the insurer shall contain, at a minimum, the information in the NAIC worksheet in not less than 12-point type. The insurer may request the applicant to provide additional information to comply with its suitability standards.

(2) In the premium section of the personal worksheet, the insurer shall disclose all rate increases and rate increase requests for all policies, whether issued by the insurer or purchased or acquired from another insurer, in the United States on or after January 1, 1990.

(3) The premium section shall include a statement that reads as follows: ''A rate guide is available that compares the policies sold by different insurers, the benefits provided in those policies, and sample premiums. The rate guide also provides a history of the rate increases, if any, for the policies issued by different insurers in each state in which they do business, since January 1, 1990. You can obtain a copy of this rate guide by calling the Department of Insurance's consumer toll-free telephone number (1-800-927-HELP), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free telephone number (1-800-434-0222), or by accessing the Department of Insurance's Internet web site (www.insurance.ca.gov).'' If the personal worksheet is approved prior to the availability of the rate guide, the worksheet shall indicate that the rate guide will be available beginning December 1, 2000.

(4) A copy of the issuer's personal worksheet shall be filed and approved by the commissioner. A new personal worksheet shall be filed

and approved by the commissioner each time a rate is increased in California and each time a new policy is filed for approval by the commissioner. The new personal worksheet shall disclose the amount of the rate increase in California and all prior rate increases in California as well as all prior rate increases and rate increase requests or filings in any other state. The new personal worksheet shall be used by the insurer within 60 days of approval by the commissioner in place of the previously approved personal worksheet.

(d) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sale of employer group long-term care insurance to employees and their spouses and dependents.

(e) The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet is prohibited.

(f) The issuer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(g) Agents shall use the suitability standards developed by the insurer in marketing long-term care insurance.

(h) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. Alternatively, the issuers shall send the applicant a letter similar to the ''Long-Term Care Insurance Suitability Letter'' contained in the Long-Term Care Model Regulations of the National Association of Insurance Commissioners. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(i) The insurer shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number who chose to conform after receiving a suitability letter.

(j) This section shall not apply to life insurance policies that accelerate benefits for long-term care.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable prior to the publishing of the consumer rate guide on December 1, 2000, it is necessary for this act to take effect immediately.

CHAPTER 561

An act to amend Sections 649.92 and 3003 of, and to add Section 3058.61 to, the Penal Code, relating to stalkers.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 646.92 of the Penal Code is amended to read:

646.92. (a) The Department of Corrections, county sheriff, or director of the local department of corrections shall give notice not less than 15 days prior to the release from the state prison or a county jail of any person who is convicted of violating Section 646.9 or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, or any change in the parole status or relevant change in the parole location of the convicted person, or if the convicted person absconds from supervision while on parole, to any person the court identifies as a victim of the offense, a family member of the victim, or a witness to the offense by telephone and certified mail at his or her last known address, upon request. A victim, family member, or witness shall keep the Department of Corrections or county sheriff informed of his or her current mailing address and telephone number to be entitled to receive notice. A victim may designate another person for the purpose of receiving notification. The Department of Corrections, county sheriff, or director of the local department of corrections, shall make reasonable attempts to locate a person who has requested notification but whose address and telephone number are incorrect or not current. However, the duty to keep the Department of Corrections or county sheriff informed of a current mailing address and telephone number shall remain with the victim.

Following notification by the department pursuant to Section 3058.61, in the event the victim had not originally requested notification under this section, the sheriff or the chief of police, as appropriate, shall make an attempt to advise the victim or, if the victim is a minor, the parent or guardian of the victim, of the victim's right to notification under this section.

(b) All information relating to any person who receives notice under this section shall remain confidential and shall not be made available to the person convicted of violating this section.

(c) For purposes of this section, ''release'' includes a release from the state prison or a county jail because time has been served, a release from the state prison or a county jail to parole or probation supervision, or an escape from an institution or reentry facility.

(d) The Department of Corrections or county sheriff shall give notice of an escape from an institution or reentry facility of any person convicted of violating Section 646.9 or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, to the notice recipients described in subdivision (a).

(e) Substantial compliance satisfies the notification requirements of subdivision (a).

SEC. 2. 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 including any or all of grades kindergarten to 6, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment 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 the victim.

(i) 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.

(j) An inmate may be paroled to another state pursuant to any other law.

(k) (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.

SEC. 3. Section 3058.61 is added to the Penal Code, to read:

3058.61. Whenever any person confined to state prison is serving a term for a conviction of Section 646.9, the Department of Corrections shall notify by mail, at least 45 days prior to the person's scheduled release date, the sheriff or chief of police, or both, and the district attorney who has jurisdiction over the community in which the person was convicted, and the sheriff, chief of police, or both, and the district attorney having jurisdiction over the community in which the person is scheduled to be released on parole, or released following a period of confinement pursuant to a parole revocation without a new commitment. The notification shall indicate whether the victim has requested notification from the department pursuant to Section 646.92.

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 562

An act to amend Section 2166.5 of the Elections Code, and to amend Sections 6205, 6205.5, 6206, 6206.5, 6206.7, 6207, 6208.5, and 6209.7 of, to amend the heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of, and to repeal Section 6209.5 of, the Government Code, relating to public records.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. 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 and telephone number 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 and Stalking 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 and telephone number 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. 1.5. 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 and Stalking 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. 2. The heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code is amended to read:

CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE AND STALKING

SEC. 3. Section 6205 of the Government Code is amended to read:

6205. The Legislature finds that persons attempting to escape from actual or threatened domestic violence or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence or stalking, to enable interagency cooperation with the Secretary of State in providing address confidentiality for victims of domestic violence or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

SEC. 3.5. Section 6205 of the Government Code is amended to read:

6205. The Legislature finds that persons attempting to escape from actual or threatened domestic violence or stalking frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence

or stalking, to enable interagency cooperation with the Secretary of State in providing name and address confidentiality for victims of domestic violence or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

SEC. 4. Section 6205.5 of the Government Code is amended to read:

6205.5. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) ''Address'' means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(b) ''Domestic violence'' means an act as defined in Section 6211 of the Family Code.

(c) ''Stalking'' means an act as defined in Section 646.9 of the Penal Code.

(d) ''Program participant'' means a person certified as a program participant under Section 6206.

SEC. 5. Section 6206 of the Government Code is amended to read:

6206. (a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor or incapacitated person. An application shall be completed in person at a community-based victims' assistance program. The application process shall include a requirement that the applicant shall meet with a victims' assistance counselor and receive orientation information about the program. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains all of the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe both of the following:

(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or stalking.

(B) That the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a domestic violence program if the person is alleged to be a victim of domestic violence.

(C) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence.

(3) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of stalking, the application shall be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged stalking.

(C) Any other evidence that supports the sworn statement, such as a sworn statement from any other individual with knowledge of the circumstances that provide the basis for the claim, or physical evidence of the act or acts of stalking.

(4) A statement of whether there are any existing court orders involving the applicant for child support, child custody, or child visitation, and whether there are any active court actions involving the applicant for child support, child custody, or child visitation, the name and address of legal counsel of record, and the last known address of the other parent or parents involved in those court orders or court actions.

(5) A designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail.

(A) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the Office of the Secretary of State two copies of the summons, writ, notice, demand, or process.

(B) If a summons, writ, notice, demand, or process is served on the Secretary of State, the Secretary of State shall immediately cause a copy to be forwarded to the program participant at the address shown on the records of the address confidentiality program so that the summons, writ, notice, demand, or process is received by the program participant within three days of the Secretary of State's having received it.

(C) The Secretary of State shall keep a record of all summonses, writs, notices, demands, and processes served upon the Secretary of

State under this section and shall record the time of that service and the Secretary of State's action.

(D) The office of the Secretary of State and any agent or person employed by the Secretary of State shall be held harmless from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants.

(6) The mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State.

(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence or stalking.

(8) The signature of the applicant and of any individual or representative of any office designated in writing under Section 6208.5 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the Secretary of State.

(c) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure.

(d) Upon certification, in any case where there are court orders or court actions identified in paragraph (4) of subdivision (a) of Section 6206 and there is no other or superseding court order dictating the specific terms of communication between the parties, the Secretary of State shall, within 10 days, notify the other parent or parents of the address designated by the Secretary of State for the program participant and the designation of the Secretary of State as agent for purposes of service of process. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision.

SEC. 6. Section 6206.5 of the Government Code is amended to read:

6206.5. (a) The Secretary of State may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant

provides the Secretary of State with at least seven days' prior notice of the change of address.

(b) The Secretary of State may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(c) The Secretary of State shall cancel certification of a program participant who applies using false information.

(d) Any records or documents pertaining to a program participant shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

SEC. 6.5. Section 6206.5 of the Government Code is amended to read:

6206.5. (a) The Secretary of State may cancel program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Secretary of State with at least seven days' prior notice of the change of address.

(b) The Secretary of State may cancel a program participant's certification if the program participant changes his or her name from the one listed in the application and fails to notify the Secretary of State of the name change within seven days of the change.

(c) The Secretary of State may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The Secretary of State shall cancel certification of a program participant who applies using false information.

(e) Any records or documents pertaining to a program participant shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

SEC. 7. Section 6206.7 of the Government Code is amended to read:

6206.7. (a) A program participant may withdraw from program participation by submitting to the address confidentiality program manager written notification of withdrawal and his or her current identification card. Certification shall be terminated on the date of receipt of this notification.

(b) The address confidentiality program manager may terminate a program participant's certification and invalidate his or her authorization card for any of the following reasons:

(1) The program participant's certification term has expired and certification renewal has not been completed.

(2) The address confidentiality program manager has determined that false information was used in the application process or that participation in the program is being used as a subterfuge to avoid

detection of illegal or criminal activity or apprehension by law enforcement.

(3) The program participant no longer resides at the residential address listed on the application, and has not provided at least seven days' prior notice in writing of a change in address.

(4) A service of process document or mail forwarded to the program participant by the address confidentiality program manager is returned as nondeliverable.

(5) The program participant obtains a legal name change and fails to notify the Secretary of State within seven days.

(c) If termination is a result of paragraph (1), (3), (4), or (5) of subdivision (b), the address confidentiality program manager shall send written notification of the intended termination to the program participant. The program participant shall have five business days in which to appeal the termination under procedures developed by the Secretary of State.

(d) The address confidentiality program manager shall notify in writing the county elections official and authorized personnel of the appropriate county clerk's office, county recording office, and department of health of the program participant's certification withdrawal, invalidation, expiration, or termination.

(e) Upon receipt of this termination notification, authorized personnel shall transmit to the address confidentiality program manager all appropriate administrative records pertaining to the program participant and the record transmitting agency is no longer responsible for maintaining the confidentiality of a terminated program participant's record.

(f) Following termination of program participant certification as a result of subdivision (b), the address confidentiality program manager may disclose information contained in the participant's application.

SEC. 8. Section 6207 of the Government Code is amended to read:

6207. (a) A program participant may request that state and local agencies use the address designated by the Secretary of State as his or her address. When creating a public record, state and local agencies shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined both of the following:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter.

(2) This address will be used only for those statutory and administrative purposes and shall not be publicly disseminated.

(b) A program participant may request that state and local agencies use the address designated by the Secretary of State as his or her address.

When modifying or maintaining a public record, excluding the record of any birth, fetal death, death, or marriage registered under Division 102 (commencing with Section 102100) of the Health and Safety Code, state and local agencies shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined both of the following:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter.

(2) This address will be used only for those statutory and administrative purposes and shall not be publicly disseminated.

(c) A program participant may use the address designated by the Secretary of State as his or her work address.

(d) The office of the Secretary of State shall forward all first-class mail and all mail sent by a governmental agency to the appropriate program participants. The office of the Secretary of State shall not handle or forward packages regardless of size or type of mailing.

(e) Notwithstanding subdivisions (a) and (b), program participants shall comply with the provisions specified in subdivision (d) of Section 1808.21 of the Vehicle Code if requesting suppression of the records maintained by the Department of Motor Vehicles. Program participants shall also comply with all other provisions of the Vehicle Code relating to providing current address information to the department.

SEC. 9. Section 6208.5 of the Government Code is amended to read:

6208.5. The Secretary of State shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence or stalking to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the Secretary of State or its designees to applicants shall in no way be construed as legal advice.

SEC. 10. Section 6209.5 of the Government Code is repealed.

SEC. 11. Section 6209.7 of the Government Code is amended to read:

6209.7. (a) Nothing in this chapter, nor participation in this program, affects custody or visitation orders in effect prior to or during program participation. A program participant who falsifies his or her location in order to unlawfully avoid custody or visitation orders is subject to immediate termination from the program and is guilty of a misdemeanor.

(b) Participation in the program does not constitute evidence of domestic violence or stalking for purposes of making custody or visitation orders.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain

costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 13. Section 1.5 of this bill incorporates amendments to Section 2166.5 of the Elections Code proposed by both this bill and AB 2214. 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 2166.5 of the Election Code, and (3) this bill is enacted after AB 2214, in which case Section 1 of this bill shall not become operative.

SEC. 14. Section 3.5 of this bill incorporates amendments to Section 6205 of the Government Code proposed by both this bill and 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 6205 of the Government Code, and (3) this bill is enacted after AB 205, in which case Section 3 of this bill shall not become operative.

SEC. 15. Section 6.5 of this bill incorporates amendments to Section 6206.5 of the Government Code proposed by both this bill and 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 6206.5 of the Government Code, and (3) this bill is enacted after AB 205, in which case Section 6 of this bill shall not become operative.

CHAPTER 563

An act to amend Section 602.5 of the Penal Code, relating to trespass.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 602.5 of the Penal Code is amended to read:

602.5. (a) Every person other than a public officer or employee acting within the course and scope of his or her employment in performance of a duty imposed by law, who enters or remains in any noncommercial dwelling house, apartment, or other residential place without consent of the owner, his or her agent, or the person in lawful possession thereof, is guilty of a misdemeanor.

(b) Every person other than a public officer or an employee acting within the course and scope of his employment in performance of a duty imposed by law, who, without the consent of the owner, his or her agent, or the person in lawful possession thereof, enters or remains in any noncommercial dwelling house, apartment, or other residential place while a resident, or another person authorized to be in the dwelling, is present at any time during the course of the incident is guilty of aggravated trespass punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(c) If the court grants probation, it may order a person convicted of a misdemeanor under subdivision (b) to up to three years of supervised probation. It shall be a condition of probation that the person participate in counseling, as designated by the court.

(d) If a person is convicted of a misdemeanor under subdivision (b), the sentencing court shall also consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to three years, as determined by the court. In determining the length of the restraining order, the court shall consider, among other factors, the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.

(e) Nothing in this section shall preclude prosecution under Section 459 or any other provision of law.

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 564

An act to add Sections 3071 and 13519.05 to the Penal Code, relating to peace officer training.

[Approved by Governor September 18, 2000. Filed with
Secretary of State September 20, 2000.]

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

SECTION 1. Section 3071 is added to the Penal Code, to read:

3071. The Department of Corrections shall implement, by January 1, 2002, a course of instruction for the training of parole officers in California in the management of parolees who were convicted of stalking pursuant to Section 646.9. The course shall include instruction in the appropriate protocol for notifying and interacting with stalking victims, especially in regard to a stalking offender's release from parole.

SEC. 2. Section 13519.05 is added to the Penal Code, to read:

13519.05. (a) The commission shall implement by January 1, 2002, a course or courses of instruction for the training of law enforcement officers in California in the handling of stalking complaints and also shall develop guidelines for law enforcement response to stalking. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in stalking situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include stalking experts with expertise in the delivery of direct services to victims of stalking. Completion of the course may be satisfied by telecommunication, video training tape, or other instruction.

(b) (1) As used in this section, ''law enforcement officer'' means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (b) of Section 830.2, any peace officer of the California State University Police Departments, as defined in subdivision (c) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(2) As used in this section, ''stalking'' means the offense defined in Section 646.9.

(c) (1) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of stalking.

(2) The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways stalking training might be included as a part of ongoing programs.

(d) Participation in the course or courses specified in this section by peace officers or the agencies employing them, is voluntary.

CHAPTER 565

An act to add Sections 765.5 and 6850.5, to the Financial Code, and to amend Sections 2351, 2359, 2401, 2403, and 2620 of, and to add Sections 2111.5 and 2401.6 to, the Probate Code, relating to conservatorship and guardianship.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

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

SECTION 1. Section 765.5 is added to the Financial Code, to read:

765.5. When a guardian or conservator, pursuant to letters of guardianship or conservatorship, opens an account for the estate in a bank or trust company, or changes the name of an existing account to reflect the guardianship or conservatorship, the bank or trust company shall send to the court having jurisdiction of the guardianship or conservatorship a copy of the documents that evidence the change.

SEC. 2. Section 6850.5 is added to the Financial Code, to read:

6850.5. When a guardian or conservator, pursuant to letters of guardianship or conservatorship, opens an account for the estate in a savings association, or changes the name of an existing account to reflect the guardianship or conservatorship, the savings association shall send to the court having jurisdiction of the guardianship or conservatorship a copy of the documents that evidence the change.

SEC. 3. Section 2111.5 is added to the Probate Code, to read:

2111.5. (a) Except as provided in subdivision (b), every court official or employee who has duties or responsibilities related to the appointment of a guardian or conservator, or the processing of any document related to a guardian or conservator, and every person who is related by blood or marriage to a court official or employee who has these duties, is prohibited from purchasing, leasing, or renting any real or personal property from the estate of the ward or conservatee whom the guardian or conservator represents. For purposes of this subdivision, a ''person related by blood or marriage'' means any of the following:

(1) A person's spouse.

(2) Relatives within the second degree of lineal or collateral consanguinity of a person or a person's spouse.

(b) A person described in subdivision (a) is not prohibited from purchasing real or personal property from the estate of the ward or conservatee whom the guardian or conservator represents where the purchase is made under terms and conditions of a public sale of the property.

(c) A violation of this section shall result in the rescission of the purchase, lease, or rental of the property. Any losses incurred by the estate of the ward or conservatee because the property was sold or leased at less than fair market value shall be deemed as charges against the guardian or conservator under the provisions of Sections 2401.3 and 2401.5. The court shall assess a civil penalty equal to three times the charges against the guardian, conservator, or other person in violation of this section, and may assess punitive damages as it deems proper. If the estate does not incur losses as a result of the violation, the court shall order the guardian, conservator, or other person in violation of this section to pay a fine of up to five thousand dollars ($5,000) for each violation. The fines and penalties provided in this section are in addition to any other rights and remedies provided by law.

SEC. 4. Section 2351 of the Probate Code is amended to read:

2351. (a) Subject to subdivision (b), the guardian or conservator, but not a limited conservator, has the care, custody, and control of, and has charge of the education of, the ward or conservatee.

(b) Where the court determines that it is appropriate in the circumstances of the particular conservatee, the court, in its discretion, may limit the powers and duties that the conservator would otherwise have under subdivision (a) by an order stating either of the following:

(1) The specific powers that the conservator does not have with respect to the conservatee's person and reserving the powers so specified to the conservatee.

(2) The specific powers and duties the conservator has with respect to the conservatee's person and reserving to the conservatee all other rights with respect to the conservatee's person that the conservator otherwise would have under subdivision (a).

(c) An order under this section (1) may be included in the order appointing a conservator of the person or (2) may be made, modified, or revoked upon a petition subsequently filed, notice of the hearing on the petition having been given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(d) The guardian or conservator, in exercising his or her powers, may not hire or refer any business to an entity in which he or she has a financial interest except upon authorization of the court. Prior to authorization from the court, the guardian or conservator shall disclose to the court in writing his or her financial interest in the entity. For the purposes of this subdivision, ''financial interest'' shall mean (1) an

ownership interest in a sole proprietorship, a partnership, or a closely held corporation, or (2) an ownership interest of greater than 1 percent of the outstanding shares in a publicly traded corporation, or (3) being an officer or a director of a corporation. This subdivision shall apply only to conservators and guardians required to register with the Statewide Registry under Chapter 13 (commencing with Section 2850).

SEC. 5. Section 2359 of the Probate Code is amended to read:

2359. (a) Upon petition of the guardian or conservator or ward or conservatee or other interested person, the court may authorize and instruct the guardian or conservator or approve and confirm the acts of the guardian or conservator.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) (1) When a guardian or conservator petitions for the approval of a purchase, lease, or rental of real or personal property from the estate of a ward or conservatee, the guardian or conservator shall provide a statement disclosing the family or affiliate relationship between the guardian and conservator and the purchaser, lessee, or renter of the property, and the family or affiliate relationship between the guardian or conservator and any agent hired by the guardian or conservator.

(2) For the purposes of this subdivision, ''family'' means a person's spouse or relatives within the second degree of lineal or collateral consanguinity of a person or a person's spouse. For the purposes of this subdivision, ''affiliate'' means an entity that is under the direct control, indirect control, or common control of the guardian or conservator.

(3) A violation of this section shall result in the rescission of the purchase, lease, or rental of the property. Any losses incurred by the estate of the ward or conservatee because the property was sold or leased at less than fair market value shall be deemed as charges against the guardian or conservator under the provisions of Sections 2401.3 and 2401.5. The court shall assess a civil penalty equal to three times the charges against the guardian, conservator, or other person in violation of this section, and may assess punitive damages as it deems proper. If the estate does not incur losses as a result of the violation, the court shall order the guardian, conservator, or other person in violation of this section to pay a fine of up to five thousand dollars ($5,000) for each violation. The fines and penalties provided in this section are in addition to any other rights and remedies provided by law.

SEC. 6. Section 2401 of the Probate Code is amended to read:

2401. (a) The guardian or conservator, or limited conservator to the extent specifically and expressly provided in the appointing court's order, has the management and control of the estate and, in managing and controlling the estate, shall use ordinary care and diligence. What

constitutes use of ordinary care and diligence is determined by all the circumstances of the particular estate.

(b) The guardian or conservator:

(1) Shall exercise a power to the extent that ordinary care and diligence requires that the power be exercised.

(2) Shall not exercise a power to the extent that ordinary care and diligence requires that the power not be exercised.

(c) The guardian or conservator, in exercising his or her powers, may not hire or refer any business to an entity in which he or she has a financial interest except upon authorization of the court. Prior to authorization from the court, the guardian or conservator shall disclose to the court in writing his or her financial interest in the entity. For the purposes of this subdivision, ''financial interest'' shall mean (1) an ownership interest in a sole proprietorship, a partnership, or a closely held corporation, or (2) an ownership interest of greater than 1 percent of the outstanding shares in a publicly held corporation, or (3) being an officer or a director of a corporation. This subdivision shall apply only to conservators and guardians required to register with the Statewide Registry under Chapter 13 (commencing with Section 2850).

SEC. 7. Section 2401.6 is added to the Probate Code, to read:

2401.6. Any surcharge that a guardian or conservator incurs under the provisions of Sections 2401.3 or 2401.5 may not be paid by or offset against future fees or wages to be provided by the estate to the guardian or conservator.

SEC. 8. Section 2403 of the Probate Code is amended to read:

2403. (a) Upon petition of the guardian or conservator, the ward or conservatee, a creditor, or other interested person, the court may authorize and instruct the guardian or conservator, or approve and confirm the acts of the guardian or conservator, in the administration, management, investment, disposition, care, protection, operation, or preservation of the estate, or the incurring or payment of costs, fees, or expenses in connection therewith.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) (1) When a guardian or conservator petitions for the approval of a purchase, lease, or rental of real or personal property from the estate of a ward or conservatee, the guardian or conservator shall provide a statement disclosing the family or affiliate relationship between the guardian and conservator and the purchaser, lessee, or renter of the property, and the family or affiliate relationship between the guardian or conservator and any agent hired by the guardian or conservator.

(2) For the purposes of this subdivision, ''family'' means a person's spouse or relatives within the second degree of lineal or collateral

consanguinity of a person or a person's spouse. For the purposes of this subdivision, ''affiliate'' means an entity that is under the direct control, indirect control, or common control of the guardian or conservator.

(3) A violation of this section shall result in the rescission of the purchase, lease, or rental of the property. Any losses incurred by the estate of the ward or conservatee because the property was sold or leased at less than fair market value shall be deemed as charges against the guardian or conservator under the provisions of Sections 2401.3 and 2401.5. The court shall assess a civil penalty equal to three times the charges against the guardian, conservator, or other person in violation of this section, and may assess punitive damages as it deems proper. If the estate does not incur losses as a result of the violation, the court shall order the guardian, conservator, or other person in violation of this section to pay a fine of up to five thousand dollars ($5,000) for each violation. The fines and penalties provided in this section are in addition to any other rights and remedies provided by law.

SEC. 9. Section 2620 of the Probate Code is amended to read:

2620. (a) At the expiration of one year from the time of appointment and thereafter not less frequently than biennially, unless otherwise ordered by the court, the guardian or conservator shall present the account of the guardian or conservator to the court for settlement and allowance in the manner provided in Chapter 4 (commencing with Section 1060) of Part 1 of Division 3.

(b) The final account of the guardian or conservator following the death of the ward or conservatee shall include an account for the period that ended on the date of death and a separate account for the period subsequent to the date of death.

(c) As part of the first accounting required by subdivision (a), the guardian or conservator shall submit to the court a copy of the account statement from any financial institution where money belonging to the estate is deposited that accounts for the period immediately preceding the date the guardian or conservator was appointed and the account statement from any financial institution where money belonging to the estate is deposited that accounts for the period immediately preceding the date the accounting is filed. As part of subsequent accountings and the accounting required by subdivision (b), the guardian or conservator shall submit to the court the most recent account statement from any financial institution where money belonging to the estate is deposited. The account statements from any financial institution submitted pursuant to this section shall be confidential and subject to discovery only upon an order of the court.

CHAPTER 566

An act to amend Section 18010 of, and to add Section 18009.3 to, the Health and Safety Code, and to amend Sections 635, 4453, 11713.1, 11713.3, 34500, and 35780.3 of the Vehicle Code, relating to park trailers.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 21, 2000.]

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

SECTION 1. Section 18009.3 is added to the Health and Safety Code, to read:

18009.3. ''Park trailer'' means a trailer designed for human habitation for recreational or seasonal use only, that meets all of the following requirements:

(a) It contains 400 square feet or less of gross floor area. It may not exceed 14 feet in width at the maximum horizontal projection.

(b) It is built upon a single chassis.

(c) It may only be transported upon the public highways with a permit issued pursuant to Section 35780 of the Vehicle Code.

SEC. 2. Section 18010 of the Health and Safety Code is amended to read:

18010. ''Recreational vehicle'' means both of the following:

(a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria:

(1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.

(3) It is built on a single chassis.

(4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(b) A park trailer, as defined in Section 18009.3.

SEC. 3. Section 635 of the Vehicle Code is amended to read:

635. A ''trailer coach'' is a vehicle, other than a motor vehicle, designed for human habitation or human occupancy for industrial, professional, or commercial purposes, for carrying property on its own structure, and for being drawn by a motor vehicle. A ''park trailer,'' as described in Section 18009.3 of the Health and Safety Code, is a trailer coach.

SEC. 4. Section 4453 of the Vehicle Code is amended to read:

4453. (a) The registration card shall contain upon its face, the date issued, the name and residence or business address of the owner and of the legal owner, if any, the registration number assigned to the vehicle, and a description of the vehicle as complete as that required in the application for registration of the vehicle.

(b) A motor vehicle of a type included in this subdivision shall be identified as such on the face of the registration card, whenever the department is able to ascertain that fact, at the time application is made for initial registration or transfer of ownership of the vehicle.

(1) A motor vehicle rebuilt and restored to operation which was previously declared to be a total loss salvage vehicle because the cost of repairs exceeds the retail value of the vehicle.

(2) A motor vehicle rebuilt and restored to operation which was previously reported to be dismantled pursuant to Section 11520.

(3) A motor vehicle previously registered to a law enforcement agency and operated in law enforcement work.

(4) A motor vehicle formerly operated as a taxicab.

(5) A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.

(6) A park trailer, as described in Section 18009.3 of the Health and Safety Code, which when moved upon the highway is required to be moved under a permit pursuant to Section 35780.

(7) A motor vehicle that has been reacquired under circumstances described in subdivision (c) of Section 1793.23 of the Civil Code, a vehicle with out-of-state titling documents reflecting a warranty return, or a vehicle that has been identified by an agency of another state as requiring a warranty return title notation, pursuant to the laws of that state. The notation made on the face of the registration and pursuant to this subdivision shall state ''Lemon Law Buyback.''

(c) The director may modify the form, arrangement, and information appearing on the face of the registration card and may provide for standardization and abbreviation of fictitious or firm names on the registration card whenever the director finds that the efficiency of the department will be promoted by so doing, except that general delivery or post office box numbers shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 5. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees,

emission testing fees not exceeding fifty dollars ($50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed forty-five dollars ($45).

(c) Exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

For purposes of this subdivision, ''newspaper display advertisement'' means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars ($45) for the document preparation charge and not to exceed fifty dollars ($50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) (1) Advertise for sale, sell, or purchase for resale any new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to any transaction involving any of the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.

(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating or more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term ''free'' includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as ''starting at,'' ''from,'' ''beginning as low as,'' or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

For purposes of this subdivision, in any newspaper advertisement for a vehicle that is two model years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be (1) printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price, however, in no case shall the phrase be printed in less than 8-point type size, and (2) be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use the term ''rebate'' or similar words such as ''cash back'' in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, ''cash

price'' has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use the terms ''invoice,'' ''dealer's invoice,'' ''wholesale price,'' or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a ''commercial purchaser'' means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is ''fully factory equipped.''

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the

sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as ''added mark-up.''

(r) Advertise any underselling claim, such as ''we have the lowest prices'' or ''we will beat any dealer's price,'' unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, ''incentive'' means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point bold type on the face of any contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

SEC. 5.5. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees,

emission testing fees not exceeding fifty dollars ($50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed forty-five dollars ($45).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

(2) For purposes of paragraph (1), ''advertisement'' means any advertisement in a newspaper, magazine, direct mail publication, or handbill that is two or more columns in width or one column in width and more than seven inches in length, or on any web page of a dealer's website that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars ($45) for the document preparation charge and not to exceed fifty dollars ($50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) (1) Advertise for sale, sell, or purchase for resale any new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to any transaction involving any of the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.

(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating or more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term ''free'' includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as ''starting at,'' ''from,'' ''beginning as low as,'' or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

For purposes of this subdivision, in any newspaper advertisement for a vehicle that is two model years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be (1) printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price, however, in no case shall the phrase be printed in less than 8-point type size, and (2) be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use the term ''rebate'' or similar words such as ''cash back'' in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price

the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, ''cash price'' has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use the terms ''invoice,'' ''dealer's invoice,'' ''wholesale price,'' or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a ''commercial purchaser'' means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is ''fully factory equipped.''

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as ''added mark-up.''

(r) Advertise any underselling claim, such as ''we have the lowest prices'' or ''we will beat any dealer's price,'' unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, ''incentive'' means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point bold type on the face of any contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

(y) This section shall become operative on July 1, 2001.

SEC. 6. Section 11713.3 of the Vehicle Code is amended to read:

11713.3. It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do any of the following:

(a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle or parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) To prevent or require, or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators if the franchise was granted the dealer in reliance upon the personal qualifications of such person or persons.

(d) (1) Except as provided in subdivision (t), to prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that the consent shall not be unreasonably withheld.

(2) (A) For the transferring franchisee to fail, prior to the sale, transfer, or assignment of a franchisee or the sale, assignment, or transfer of all or substantially all of the assets of the franchised business or a controlling interest in the franchised business to another person, to notify the manufacturer or distributor of the franchisee's decision to sell, transfer, or assign the franchise. The notice shall be in writing and shall include all of the following:

(i) The proposed transferee's name and address.

(ii) A copy of all of the agreements relating to the sale, assignment, or transfer of the franchised business or its assets.

(iii) The proposed transferee's application for approval to become the successor franchisee. The application shall include forms and related information generally utilized by the manufacturer or distributor in reviewing prospective franchisees, if those forms are readily made available to existing franchisees. As soon as practicable after receipt of the proposed transferee's application, the manufacturer or distributor shall notify the franchisee and the proposed transferee of any information needed to make the application complete.

(B) For the manufacturer or distributor, to fail on or before 60 days after the receipt of all of the information required pursuant to subparagraph (A), or as extended by a written agreement between the manufacturer or distributor and the franchisee, to notify the franchisee of the approval or the disapproval of the sale, transfer, or assignment of the franchise. The notice shall be in writing and shall be personally served or sent by certified mail, return receipt requested, or by guaranteed overnight delivery service that provides verification of delivery and shall be directed to the franchisee. Any proposed sale, assignment, or transfer shall be deemed approved, unless disapproved by the franchisor in the manner provided by this subdivision. If the proposed sale, assignment, or transfer is disapproved, the franchisor shall include in the notice of disapproval a statement setting forth the reasons for the disapproval.

(3) In any action in which the manufacturer's or distributor's withholding of consent under this subdivision or subdivision (e) is an issue, whether the withholding of consent was unreasonable is a question of fact requiring consideration of all the existing circumstances.

(e) To prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld or conditioned upon the release, assignment, novation, waiver, estoppel, or modification of any claim or defense by the dealer.

(f) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and that other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if the

referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer is evidence of each such order. In the event of manufacturer price reductions, the amount of the reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either (1) the addition to a motor vehicle of required or optional equipment pursuant to state or federal law, or (2) revaluation of the United States dollar in the case of foreign-make vehicles, are not subject to this subdivision.

(i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of introduction of new model vehicles.

(j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.

(*l*) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.

(m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.

(n) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(o) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation

which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions. A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of the distributor sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of vehicles at retail.

(p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(q) To sell vehicles to persons not licensed under this chapter for resale.

(r) To fail to affix an identification number to any park trailer, as described in Section 18009.3 of the Health and Safety Code, that is manufactured on or after January 1, 1987, and which does not clearly identify the unit as a park trailer to the department. The configuration of the identification number shall be approved by the department.

(s) To dishonor a warranty, rebate, or other incentive offered to the public or a dealer in connection with the retail sale of a new motor vehicle, based solely upon the fact that an autobroker arranged or negotiated the sale. This subdivision shall not prohibit the disallowance of that rebate or incentive if the purchaser or dealer is ineligible to receive the rebate or incentive pursuant to any other term or condition of a rebate or incentive program.

(t) To exercise a right of first refusal or any other right requiring a franchisee or any owner thereof to sell, transfer, or assign to the franchisor, or to any nominee of the franchisor, all or any material part of the franchised business or of the assets thereof unless all of the following requirements are met:

(1) The franchise authorizes the franchisor to exercise a right of first refusal to acquire the franchised business or assets thereof in the event of a proposed sale, transfer or assignment.

(2) The franchisor gives written notice of its exercise of the right of first refusal no later than 45 days after the franchisor receives all of the information required pursuant to subparagraph (A) of paragraph (2) of subdivision (d).

(3) The sale, transfer, or assignment being proposed relates to not less than all or substantially all of the assets of the franchised business or to a controlling interest in the franchised business.

(4) The proposed transferee is neither a family member of an owner of the franchised business, nor a managerial employee of the franchisee owning 15 percent or more of the franchised business, nor a corporation,

partnership, or other legal entity owned by the existing owners of the franchised business. For purposes of this paragraph, a ''family member'' means the spouse of an owner of the franchised business, the child, grandchild, brother, sister, or parent of an owner, or a spouse of one of those family members. Nothing contained in this paragraph limits the rights of the franchisor to disapprove a proposed transferee as provided in subdivision (d).

(5) Upon the franchisor's exercise of the right of first refusal, the consideration paid by the franchisor to the franchisee and owners of the franchised business shall equal or exceed all consideration that each of them were to have received under the terms of, or in connection with, the proposed sale, assignment, or transfer, and the franchisor shall comply with all the terms and conditions of the agreement or agreements to sell, transfer, or assign the franchised business.

(6) The franchisor shall reimburse the proposed transferee for any expenses paid or incurred by the proposed transferee in evaluating, investigating, and negotiating the proposed transfer to the extent those expenses do not exceed the usual, customary, and reasonable fees charged for similar work done in the area in which the franchised business is located. These expenses include, but are not limited to, legal and accounting expenses, and expenses incurred for title reports and environmental or other investigations of any real property on which the franchisee's operations are conducted. The proposed transferee shall provide the franchisor a written itemization of those expenses, and a copy of all nonprivileged reports and studies for which expenses were incurred, if any, within 30 days of the proposed transferee's receipt of a written request from the franchisor for that accounting. The franchisor shall make payment within 30 days of exercising the right of first refusal.

(u) To unfairly discriminate in favor of any dealership owned or controlled, in whole or part, by a manufacturer or distributor or an entity that controls or is controlled by the manufacturer or distributor. Nothing in this subdivision shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees or assisting those franchisees during the course of the franchise relationship as part of a program or programs to make franchises available to persons lacking capital, training, business experience, or other qualifications ordinarily required of prospective franchisees.

SEC. 6.5. Section 11713.3 of the Vehicle Code is amended to read:

11713.3. It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do any of the following:

(a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the

manufacturer or distributor, any new vehicle or parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) To prevent or require, or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators if the franchise was granted the dealer in reliance upon the personal qualifications of such person or persons.

(d) (1) Except as provided in subdivision (t), to prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that the consent shall not be unreasonably withheld.

(2) (A) For the transferring franchisee to fail, prior to the sale, transfer, or assignment of a franchisee or the sale, assignment, or transfer of all or substantially all of the assets of the franchised business or a controlling interest in the franchised business to another person, to notify the manufacturer or distributor of the franchisee's decision to sell, transfer, or assign the franchise. The notice shall be in writing and shall include all of the following:

(i) The proposed transferee's name and address.

(ii) A copy of all of the agreements relating to the sale, assignment, or transfer of the franchised business or its assets.

(iii) The proposed transferee's application for approval to become the successor franchisee. The application shall include forms and related information generally utilized by the manufacturer or distributor in reviewing prospective franchisees, if those forms are readily made available to existing franchisees. As soon as practicable after receipt of the proposed transferee's application, the manufacturer or distributor

shall notify the franchisee and the proposed transferee of any information needed to make the application complete.

(B) For the manufacturer or distributor, to fail on or before 60 days after the receipt of all of the information required pursuant to subparagraph (A), or as extended by a written agreement between the manufacturer or distributor and the franchisee, to notify the franchisee of the approval or the disapproval of the sale, transfer, or assignment of the franchise. The notice shall be in writing and shall be personally served or sent by certified mail, return receipt requested, or by guaranteed overnight delivery service that provides verification of delivery and shall be directed to the franchisee. Any proposed sale, assignment, or transfer shall be deemed approved, unless disapproved by the franchisor in the manner provided by this subdivision. If the proposed sale, assignment, or transfer is disapproved, the franchisor shall include in the notice of disapproval a statement setting forth the reasons for the disapproval.

(3) In any action in which the manufacturer's or distributor's withholding of consent under this subdivision or subdivision (e) is an issue, whether the withholding of consent was unreasonable is a question of fact requiring consideration of all the existing circumstances.

(e) To prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld or conditioned upon the release, assignment, novation, waiver, estoppel, or modification of any claim or defense by the dealer.

(f) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and that other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer is evidence of each such order. In the event of manufacturer price reductions, the amount of the reduction received by

a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either (1) the addition to a motor vehicle of required or optional equipment pursuant to state or federal law, or (2) revaluation of the United States dollar in the case of foreign-make vehicles, are not subject to this subdivision.

(i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of introduction of new model vehicles.

(j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.

(*l*) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.

(m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.

(n) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(o) (1) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area.

(2) A manufacturer, branch, or distributor or any entity that controls or is controlled by, a manufacturer, branch, or distributor, shall not, however, be deemed to be competing in the following limited circumstances:

(A) Owning or operating a dealership for a temporary period, not to exceed one year. However, after a showing of good cause by a manufacturer, branch, or distributor that it needs additional time to operate a dealership in preparation for sale to a successor independent franchisee, the board may extend the time period. The board shall extend

the time period until December 31, 2002, for any manufacturer that meets all of the following requirements:

(i) The manufacturer has no more than 25 franchisees in the state and those franchisees collectively operate dealership facilities in at least 15 counties of the state.

(ii) All of the dealership facilities operated by the manufacturer's franchisees in the state trade exclusively in the manufacturer's line-make.

(iii) No fewer than one-half of the manufacturer's franchisees in the state own and operate two or more dealership facilities in their assigned areas of responsibility.

(iv) The manufacturer holds a temporary ownership interest in no more than two dealerships in the state that are located in the relevant market area of any other franchisee of the same line-make not owned, in whole or part, by the manufacturer.

(B) Owning an interest in a dealer as part of a bona fide dealer development program that satisfies all of the following requirements:

(i) The sole purpose of the program is to make franchises available to persons lacking capital, training, business experience, or other qualities ordinarily required of prospective franchisees and the dealer development candidate is an individual who is unable to acquire the franchise without assistance of the program.

(ii) The dealer development candidate has made a significant investment subject to loss in the franchised business of the dealer.

(iii) The program requires the dealer development candidate to manage the day-to-day operations and business affairs of the dealer and to acquire, within a reasonable time and on reasonable terms and conditions, beneficial ownership and control of a majority interest in the dealer and disassociation of any direct or indirect ownership or control by the manufacturer, branch, or distributor.

(C) Owning a wholly owned subsidiary corporation of a distributorthat sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of vehicles at retail.

(3) (A) Every manufacturer, branch, and distributor that owns or operates a dealership in the manner described in subparagraph (A) of paragraph (2) shall give written notice to the board, within 10 days, each time it commences or terminates operation of a dealership and each time it acquires or divests itself of an ownership interest.

(B) Every manufacturer, branch, and distributor that owns an interest in a dealer in the manner described in subparagraph (B) of paragraph (2) shall give written notice to the board, annually, of the name and location of each dealer in which it has an ownership interest.

(p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(q) To sell vehicles to persons not licensed under this chapter for resale.

(r) To fail to affix an identification number to any park trailer, as described in Section 18009.3 of the Health and Safety Code, that is manufactured on or after January 1, 1987, and which does not clearly identify the unit as a park trailer to the department. The configuration of the identification number shall be approved by the department.

(s) To dishonor a warranty, rebate, or other incentive offered to the public or a dealer in connection with the retail sale of a new motor vehicle, based solely upon the fact that an autobroker arranged or negotiated the sale. This subdivision shall not prohibit the disallowance of that rebate or incentive if the purchaser or dealer is ineligible to receive the rebate or incentive pursuant to any other term or condition of a rebate or incentive program.

(t) To exercise a right of first refusal or any other right requiring a franchisee or any owner thereof to sell, transfer, or assign to the franchisor, or to any nominee of the franchisor, all or any material part of the franchised business or of the assets thereof unless all of the following requirements are met:

(1) The franchise authorizes the franchisor to exercise a right of first refusal to acquire the franchised business or assets thereof in the event of a proposed sale, transfer or assignment.

(2) The franchisor gives written notice of its exercise of the right of first refusal no later than 45 days after the franchisor receives all of the information required pursuant to subparagraph (A) of paragraph (2) of subdivision (d).

(3) The sale, transfer, or assignment being proposed relates to not less than all or substantially all of the assets of the franchised business or to a controlling interest in the franchised business.

(4) The proposed transferee is neither a family member of an owner of the franchised business, nor a managerial employee of the franchisee owning 15 percent or more of the franchised business, nor a corporation, partnership, or other legal entity owned by the existing owners of the franchised business. For purposes of this paragraph, a ''family member'' means the spouse of an owner of the franchised business, the child, grandchild, brother, sister, or parent of an owner, or a spouse of one of those family members. Nothing contained in this paragraph limits the rights of the franchisor to disapprove a proposed transferee as provided in subdivision (d).

(5) Upon the franchisor's exercise of the right of first refusal, the consideration paid by the franchisor to the franchisee and owners of the

franchised business shall equal or exceed all consideration that each of them were to have received under the terms of, or in connection with, the proposed sale, assignment, or transfer, and the franchisor shall comply with all the terms and conditions of the agreement or agreements to sell, transfer, or assign the franchised business.

(6) The franchisor shall reimburse the proposed transferee for any expenses paid or incurred by the proposed transferee in evaluating, investigating, and negotiating the proposed transfer to the extent those expenses do not exceed the usual, customary, and reasonable fees charged for similar work done in the area in which the franchised business is located. These expenses include, but are not limited to, legal and accounting expenses, and expenses incurred for title reports and environmental or other investigations of any real property on which the franchisee's operations are conducted. The proposed transferee shall provide the franchisor a written itemization of those expenses, and a copy of all nonprivileged reports and studies for which expenses were incurred, if any, within 30 days of the proposed transferee's receipt of a written request from the franchisor for that accounting. The franchisor shall make payment within 30 days of exercising the right of first refusal.

(u) (1) To unfairly discriminate in favor of any dealership owned or controlled, in whole or part, by a manufacturer or distributor or an entity that controls or is controlled by the manufacturer or distributor. Unfair discrimination includes, but is not limited to, the following:

(A) The furnishing to any franchisee or dealer that is owned or controlled, in whole or part, by a manufacturer, branch or distributor of any of the following:

(i) Any vehicle that is not made available to each franchisee pursuant to a reasonable allocation formula that is applied uniformly, and any part or accessory that is not made available to all franchisees on an equal basis when there is no reasonable allocation formula that is applied uniformly.

(ii) Any vehicle, part, or accessory that is not made available to each franchisee on comparable delivery terms, including time of delivery after placement of order. Differences in delivery terms due to geographic distances or other factors beyond the control of the manufacturer, branch, or distributor shall not constitute unfair competition.

(iii) Any information obtained from a franchisee by the manufacturer, branch, or distributor concerning the business affairs or operations of any franchisee in which the manufacturer, branch, or distributor does not have an ownership interest. The information includes, but is not limited to, information contained in financial statements and operating reports, the name, address, or other personal information or buying, leasing, or service behavior of any dealer customer, and any other information which if provided to a franchisee or dealer owned or controlled by a manufacturer or distributor would give that franchisee or dealer a

competitive advantage. This clause does not apply if the information is provided pursuant to a subpoena or court order, or to aggregated information made available to all franchisees.

(B) Referring a prospective purchaser or lessee to a dealer in which a manufacturer, branch, or distributor has an ownership interest unless the prospective purchaser or lessee resides in the area of responsibility assigned to that dealer or the prospective purchaser or lessee requests to be referred to that dealer.

(2) Nothing in this subdivision shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees or assisting those franchisees during the course of the franchise relationship as part of a program or programs to make franchises available to persons lacking capital, training, business experience, or other qualifications ordinarily required of prospective franchisees.

(v) As used in this section, ''area of responsibility'' is a geographic area specified in a franchise that is used by the franchisor for the purpose of evaluating the franchisee's performance of its sales and service obligations.

SEC. 7. Section 34500 of the Vehicle Code is amended to read:

34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

(c) Buses, schoolbuses, school pupil activity buses, youth buses, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), or (d). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(i) A park trailer, as described in Section 18009.3 of the Health and Safety Code, which, when moved upon a highway, is required to be moved under a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.

(k) Any commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or any commercial motor vehicle of any gross vehicle weight rating towing any vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of the subdivision, the term ''commercial motor vehicle'' has the meaning defined in subdivision (b) of Section 15210.

SEC. 8. Section 35780.3 of the Vehicle Code is amended to read:

35780.3. A permit issued under Section 35780 for the movement of a park trailer, as described in Section 18009.3 of the Health and Safety Code, shall not be issued except to transporters, or licensed manufacturers and dealers.

SEC. 9. Section 5.5 of this bill incorporates amendments to Section 11713.1 of the Vehicle Code proposed by both this bill and SB 2060. 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 11713.1 of the Vehicle Code, and (3) this bill is enacted after SB 2060, in which case Section 11713.1 of the Vehicle Code, as amended by Section 5 of this bill, shall remain operative only until July 1, 2001, at which time Section 5.5 of this bill shall become operative.

SEC. 10. Section 6.5 of this bill incorporates amendments to Section 11713.3 of the Vehicle Code proposed by both this bill and SB 1819. 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 11713.3 of the Vehicle Code, and (3) this bill is enacted after SB 1819, in which case Section 6 of this bill shall not become operative.

CHAPTER 567

An act to amend Sections 31108, 31752, 31753, and 31754 of, and to add Sections 31108.5 and 31752.2 to, the Food and Agricultural Code, relating to stray animals.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 21, 2000.]

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

SECTION 1. Section 31108 of the Food and Agricultural Code is amended to read:

31108. (a) The required holding period for a stray dog impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows:

(1) If the public or private shelter has made the dog available for owner redemption on one weekday evening until at least 7:00 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.

(2) If the public or private shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their dogs by appointment at a mutually agreeable time when the public or private shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Section 17006, stray dogs shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

(b) Except as provided in Section 17006, any stray dog that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal. The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released.

(c) During the holding period required by this section and prior to the adoption or euthanasia of a dog impounded pursuant to this division, a public or private shelter shall scan the dog for a microchip that identifies the owner of that dog and shall make reasonable efforts to contact the owner and notify him or her that his or her dog is impounded and is available for redemption.

SEC. 2. Section 31108.5 is added to the Food and Agricultural Code, to read:

31108.5. (a) (1) Upon relinquishment of a dog to a public or private shelter, the owner of that dog shall present sufficient identification to establish his or her ownership of the dog and shall sign a statement that he or she is the lawful owner of the dog.

(2) Any person who provides false information pursuant to this subdivision about his or her ownership of the dog shall be liable to the true owner of the dog in the amount of one thousand dollars ($1,000).

(b) Upon relinquishment, the dog may be made available for immediate euthanasia if it has a history of vicious or dangerous behavior documented by the agency charged with enforcing state and local animal laws.

SEC. 3. Section 31752 of the Food and Agricultural Code is amended to read:

31752. (a) The required holding period for a stray cat impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows:

(1) If the public or private shelter has made the cat available for owner redemption on one weekday evening until at least 7:00 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.

(2) If the public or private shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their cats by appointment at a mutually agreeable time when the public or private shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Sections 17006 and 31752.5, stray cats shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

(b) Except as provided in Section 17006, any stray cat that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released. The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization.

(c) During the holding period required by this section and prior to the adoption or euthanasia of a cat impounded pursuant to this division, a public or private shelter shall scan the cat for a microchip that identifies the owner of that cat and shall make reasonable efforts to contact the owner and notify him or her that his or her cat is impounded and is available for redemption.

SEC. 4. Section 31752.2 is added to the Food and Agricultural Code, to read:

31752.2. (a) Upon relinquishment of a cat to a public or private shelter, the owner of that cat shall present sufficient identification to establish his or her ownership of the cat and shall sign a statement that he or she is the lawful owner of the cat.

(b) Any person who provides false information pursuant to this subdivision about his or her ownership of the cat shall be liable to the true owner of the cat in the amount of one thousand dollars ($1,000).

SEC. 5. Section 31753 of the Food and Agricultural Code is amended to read:

31753. Any rabbit, guinea pig, hamster, potbellied pig, bird, lizard, snake, turtle, or tortoise that is legally allowed as personal property and that is impounded in a public or private shelter shall be held for the same period of time, under the same requirements of care, and with the same opportunities for redemption and adoption by new owners or nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organizations as provided for cats and dogs. Section 17006 shall also apply to these animals. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted by new owners or released to nonprofit animal rescue or adoption organizations pursuant to this section.

SEC. 6. Section 31754 of the Food and Agricultural Code, as added by Section 16 of Chapter 752 of the Statutes of 1998, is amended to read:

31754. (a) Except as provided in Section 17006, any animal relinquished by the purported owner that is of a species impounded by public or private shelters shall be available for adoption or owner redemption for two full business days, not including the day of impoundment. After the holding period, the animal may be adopted by a new owner, held longer, euthanized, or released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal adoption organization under the same conditions and circumstances provided for stray dogs and cats in Sections 31108 and 31752.

(b) This section shall become operative on July 1, 1999. 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 the dates on which it becomes inoperative and is repealed.

SEC. 6.5. Section 31754 of the Food and Agricultural Code is amended to read:

31754. (a) Except as provided in Section 17006, any animal relinquished by the purported owner that is of a species impounded by public or private shelters shall be available for adoption or owner redemption for two full business days, not including the day of impoundment. After the holding period, the animal may be adopted by

a new owner, held longer, euthanized, or released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal adoption organization under the same conditions and circumstances provided for stray dogs and cats in Sections 31108 and 31752.

(b) Notwithstanding subdivision (a), kittens or puppies relinquished by the purported owner, or brought in by any other person with authority to relinquish them, to public or private shelters, may be available immediately for adoption.

(c) This section shall become operative on July 1, 1999. 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 the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 31754 of the Food and Agricultural Code, as added by Section 16.5 of Chapter 752 of the Statutes of 1998, is amended to read:

31754. (a) Except as provided in Section 17006, any animal relinquished by the purported owner that is of a species impounded by public or private shelters shall be held for the same holding periods, with the same requirements of care, applicable to stray dogs and cats in Sections 31108 and 31752, and shall be available for owner redemption or adoption for the entire holding period.

(b) This section shall become operative on July 1, 2002.

SEC. 7.5. Section 31754 of the Food and Agricultural Code is amended to read:

31754. (a) Except as provided in Section 17006, any animal relinquished by the purported owner that is of a species impounded by public or private shelters shall be held for the same holding periods, with the same requirements of care, applicable to stray dogs and cats in Sections 31108 and 31752, and shall be available for owner redemption or adoption for the entire holding period.

(b) Notwithstanding subdivision (a), kittens or puppies relinquished by the purported owner, or brought in by any other person with authority to relinquish them, to public or private shelters, may be available immediately for adoption.

(c) This section shall become operative on July 1, 2002.

SEC. 8. Section 6.5 of this bill incorporates amendments to Section 31754 of the Penal Code, as added by Section 16 of Chapter 752 of the Statutes of 1998, proposed by both this bill and AB 1786. 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 31754 of the Penal Code, and (3) this bill is enacted after AB 1786, in which case Section 6 of this bill shall not become operative.

SEC. 9. Section 7.5 of this bill incorporates amendments to Section 31754 of the Penal Code, as added by Section 16.5 of Chapter 752 of the Statutes of 1998, proposed by both this bill and AB 1786. 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 31754 of the Penal Code, and (3) this bill is enacted after AB 1786, in which case Section 7 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 568

An act to amend Sections 119, 2415, 2486, 2533, 2733, 2761, 4935, 4938, 4939, 4945, 4955, 4970, 6980.59, 6980.74, 7304, 7309, 7311, 7312, 7314, 7317, 7319.5, 7321, 7321.5, 7324, 7326, 7330, 7331, 7331.5, 7332, 7333, 7334, 7335, 7336, 7337, 7337.5, 7338, 7340, 7341, 7342, 7344, 7347, 7349, 7353, 7354, 7355, 7356, 7357, 7359, 7362, 7362.1, 7362.2, 7362.3, 7364, 7365, 7366, 7367, 7389, 7390, 7391, 7392, 7393, 7394, 7395, 7395.1, 7396, 7400, 7403, 7404, 7405, 7406, 7407, 7408, 7409, 7414, 7414.1, 7414.3, 7414.4, 7414.6, 7415, 7416, 7421, 7422, 7507, 7533.5, 7582.19, 7583.20, 7599.32, 7601, 7602, 7606, 7607, 7608, 7610, 7616.2, 7618, 7619.2, 7621, 7625, 7626, 7626.5, 7628, 7629, 7631, 7635, 7641, 7642, 7643, 7646, 7647, 7647.5, 7650, 7661, 7662, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7685.2, 7685.3, 7685.5, 7686, 7686.5, 7687, 7690, 7708, 7709, 7711, 7725, 7725.2, 7725.5, 7727, 7737.3, 7740, 7740.5, 9603, 9625, 9630, 9631, 9650, 9650.1, 9650.2, 9650.3, 9650.4, 9651, 9652, 9652.1, 9653, 9654, 9655, 9656, 9656.1, 9656.2, 9656.25, 9656.3, 9656.4, 9656.45, 9656.5, 9657, 9658, 9659, 9662, 9663, 9676, 9679, 9680, 9682, 9683, 9685, 9700, 9700.5, 9700.6, 9701, 9702.1, 9702.2, 9702.5, 9703, 9704, 9710, 9711, 9712, 9713, 9714, 9715, 9716, 9717, 9718, 9719, 9720, 9726, 9727, 9727.1, 9727.2, 9728, 9729, 9730, 9737, 9740, 9741, 9741.1, 9742, 9744.5, 9745, 9746, 9749.5, 9751, 9752, 9753, 9754, 9755, 9756, 9759, 9760, 9761, 9762, 9763, 9764, 9765, 9766, 9767, 9769, 9780, 9781, 9782, 9783, 9784, 9785, 9786, 9787, and 9789 of, to add Sections 488, 7302, and 7303 to, and to repeal Sections 2535.3, 7305, 7306, 7307,

7308, 7427, 9705, and 9758 of, the Business and Professions Code, and to amend Sections 8113.6, 8343, 8344, 8344.5, 8346.5, 8347, 8574, 8585, 8731, 8734, 8740, 8743, 8744, 8747.5, 8748, 9600.5, and 9600.6 of the Health and Safety Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 21, 2000.]

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

SECTION 1. Section 119 of the Business and Professions Code is amended to read:

119. Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends his or her license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to him or her as being his or her license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to him or her.

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, ''fraudulent'' means containing any misrepresentation of fact.

As used in this section, ''license'' includes ''certificate,'' ''permit,'' ''authority,'' and ''registration'' or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

SEC. 2. Section 488 is added to the Business and Professions Code, to read:

488. Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

(b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

SEC. 3. Section 2415 of the Business and Professions Code is amended to read:

2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

(2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(3) The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing, and contains one of the following designations: ''medical group,'' ''medical clinic,'' ''medical corporation,'' ''medical associates,'' ''medical center,'' or ''medical office.'' In the case of doctors of podiatric medicine, the same designations may be used substituting the words ''podiatric medical,'' ''podiatric surgical,'' ''podiatry,'' ''podiatrists,'' ''foot,'' ''foot and ankle,'' ''foot care,'' ''foot health,'' or ''foot specialist'' for the word ''medical.''

(c) This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with

Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with such a medical school.

(d) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2420) pertaining to renewal of licenses, except the division shall establish procedures for the renewal of fictitious-name permits every two years on an anniversary basis. For the purpose of the conversion of existing permits to this schedule the division may fix prorated renewal fees.

(e) The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(f) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

(g) The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

(h) The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine.

SEC. 4. Section 2486 of the Business and Professions Code is amended to read:

2486. The division shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine if the applicant meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed all required parts of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed, a written examination which is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

SEC. 5. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct shall include, but shall not be limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself, of any controlled substance; (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology of audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraphs (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500.

(e) Committing a dishonest or fraudulent act which is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

SEC. 6. Section 2535.3 of the Business and Professions Code is repealed.

SEC. 7. Section 2733 of the Business and Professions Code is amended to read:

2733. (a) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (k) of Section 2815, the board may issue a temporary license to practice professional nursing, and a temporary

certificate to practice as a certified nurse midwife, certified nurse practitioner, certified public health nurse, certified clinical nurse specialist, or certified nurse anesthetist for a period of six months from the date of issuance.

A temporary license or temporary certificate shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.

(b) Upon written application, the board may reissue a temporary license or temporary certificate to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing his or her application for or the minimum requirements for a regular renewable license, but the board may not reissue a temporary license or temporary certificate more than twice to any one person.

SEC. 8. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a certificate or license.

(h) Impersonating another certified or licensed practitioner, or permitting or allowing another person to use his or her certificate or license for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a ''nurse practitioner'' or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) or holding oneself out to the public as being certified by the board as a nurse anesthetist, nurse midwife, clinical nurse specialist, or public health nurse unless the person is at the time so certified by the board.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensed or certified nurse to patient, from patient to patient, and from patient to licensed or certified nurse. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

SEC. 9. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) Any person who practices acupuncture or holds himself or herself out as practicing or engaging in the practice of acupuncture, unless he or she possesses a current and valid acupuncturist's license, is guilty of a misdemeanor.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words ''acupuncture,'' ''acupuncturist,'' ''certified acupuncturist,'' ''licensed acupuncturist,'' ''oriental medicine,'' or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, oriental medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed one year in duration at a school approved by the board.

SEC. 10. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the board pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational

training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Examination Resources of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the board pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 11. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) The board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges, and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Within three years of initial approval by the board each program so approved by the board shall receive full institutional approval under Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code in the field of traditional oriental medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code, or the board's approval of the program shall automatically lapse.

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

SEC. 12. Section 4945 of the Business and Professions Code is amended to read:

4945. (a) The board shall establish standards for continuing education for acupuncturists.

(b) The board shall require each acupuncturist to complete 30 hours of continuing education every two years as a condition for renewal of his or her license. A provider of continuing education shall apply to the board for approval to offer continuing education courses for credit toward this requirement on a form developed by the board, shall pay a fee covering the cost of approval and for the monitoring of the provider by the board and shall set forth the following information on the application:

(1) Course content.

(2) Test criteria.

(3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the board.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the board as determined by the board.

(e) If the board determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the board.

(f) This section shall become operative January 1, 1996.

SEC. 13. Section 4955 of the Business and Professions Code is amended to read:

4955. The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct that has endangered or is likely to endanger the health, safety, or welfare of the public.

Unprofessional conduct shall include, but not be limited to, the following:

(a) Securing a license by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner

dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

(g) Gross negligence.

(h) Repeated negligent acts.

(i) Incompetence.

(j) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(k) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice acupuncture issued by that state, or the revocation, suspension, or restriction of the authority to practice acupuncture by an agency of the federal government, on grounds that would have been grounds for disciplinary action in California of a licensee under this chapter.

SEC. 14. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The application fee shall be seventy-five dollars ($75).

(b) The examination and reexamination fees shall be the actual cost to the Acupuncture Board for the development and writing of, grading, and administering of each examination.

(c) The initial license fee shall be three hundred twenty-five dollars ($325), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee.

(d) The renewal fee shall be three hundred twenty-five dollars ($325) and in the event a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The renewal fee shall be assessed on an annual basis until January 1, 1996, and on and after that date the board shall assess the renewal fee biennially.

(e) The delinquency fee shall be set in accordance with Section 163.5.

(f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars ($3,000).

(g) The duplicate wall license fee is an amount equal to the cost to the board for the issuance of the duplicate license.

(h) The duplicate renewal receipt fee is ten dollars ($10).

(i) The endorsement fee is ten dollars ($10).

(j) The fee for a duplicate license for an additional office location as required under Section 4961 shall be fifteen dollars ($15).

SEC. 15. Section 6980.59 of the Business and Professions Code is amended to read:

6980.59. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.

(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of twenty-five dollars ($25) for each subsequent violation of this section.

SEC. 16. Section 6980.74 of the Business and Professions Code is amended to read:

6980.74. (a) The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:

(1) Misrepresentation or concealment of a material fact in a license application.

(2) Interference with authorized personnel engaged in the enforcement or administration of this chapter.

(3) Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime.

(4) Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith.

(5) A violation of this chapter or the rules and regulations adopted under the authority of this chapter.

(b) The bureau may suspend or revoke a license issued to a corporation or to a partnership for the commission of any act listed in subdivision (a) by an officer of the corporation or by a partner in the partnership.

SEC. 17. Section 7302 is added to the Business and Professions Code, to read:

7302. The following definitions shall apply for purposes of this chapter:

(a) ''Department'' means the Department of Consumer Affairs.

(b) ''Director'' means the Director of Consumer Affairs.

(c) ''Bureau'' means the Bureau of Barbering and Cosmetology.

(d) ''Bureau chief'' means the bureau chief of the Bureau of Barbering and Cosmetology.

SEC. 18. Section 7303 is added to the Business and Professions Code, to read:

7303. There is in the Department of Consumer Affairs a Bureau of Barbering and Cosmetology under the supervision and control of the director.

The director may appoint a bureau chief at a salary to be determined and fixed by the director with the approval of the Director of Finance. The bureau chief shall serve at the pleasure of, and under the direction and supervision of, the director.

Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the bureau chief, subject to the conditions and limitations prescribed by the director.

SEC. 19. Section 7304 of the Business and Professions Code is amended to read:

7304. The bureau shall be subject to review pursuant to Division 1.2 (commencing with Section 473).

SEC. 20. Section 7305 of the Business and Professions Code is repealed.

SEC. 21. Section 7306 of the Business and Professions Code is repealed.

SEC. 22. Section 7307 of the Business and Professions Code is repealed.

SEC. 23. Section 7308 of the Business and Professions Code is repealed.

SEC. 24. Section 7309 of the Business and Professions Code is amended to read:

7309. The bureau shall establish a principal office, and may establish branch offices and examination facilities in the state as may be deemed necessary for the bureau to conduct its business.

SEC. 25. Section 7311 of the Business and Professions Code is amended to read:

7311. The director shall adopt and use a common seal for the authentication of the bureau's records.

SEC. 26. Section 7312 of the Business and Professions Code is amended to read:

7312. The director shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the bureau, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

SEC. 27. Section 7314 of the Business and Professions Code is amended to read:

7314. The bureau shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.

The bureau shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure.

SEC. 28. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the bureau, or in an establishment or mobile unit other than one

licensed by the bureau, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is a misdemeanor.

SEC. 29. Section 7319.5 of the Business and Professions Code is amended to read:

7319.5. Students engaged in performing services on the public while enrolled in a school approved by the bureau shall not be required to be licensed under this chapter if they perform those services at the approved school in which they are enrolled.

SEC. 30. Section 7321 of the Business and Professions Code is amended to read:

7321. The bureau shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the bureau.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the bureau.

(4) Completed a barbering course in a school approved by the bureau and has completed a cosmetology crossover course in a school approved by the bureau.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 31. Section 7321.5 of the Business and Professions Code is amended to read:

7321.5. The bureau shall admit to examination for a license as a barber to practice barbering, any person who has made application to the

bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in barbering from a school approved by the bureau.

(2) Completed an apprenticeship program in barbering approved by the bureau as conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the bureau.

(5) Completed a cosmetology course in a school approved by the bureau and has completed a barber crossover course in a school approved by the bureau.

(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.

SEC. 32. Section 7324 of the Business and Professions Code is amended to read:

7324. The bureau shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the bureau.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the bureau.

Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 33. Section 7326 of the Business and Professions Code is amended to read:

7326. The bureau shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the bureau.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

SEC. 34. Section 7330 of the Business and Professions Code is amended to read:

7330. The bureau shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the bureau.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed

the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

SEC. 35. Section 7331 of the Business and Professions Code is amended to read:

7331. Any person who fails to qualify for admission to an examination because the person's practice outside this state does not fulfill the requirements of this chapter shall receive credit for that practice or study and training outside this state, or for the number of hours of study and training completed outside this state, which is substantially equivalent to the study and training required in this state, as determined by the bureau.

Those persons shall be qualified for examination upon completion of supplementary study and training in an approved school in this state.

SEC. 36. Section 7331.5 of the Business and Professions Code is amended to read:

7331.5. It is the intent of the Legislature that no law which may hereafter be enacted increasing the number of hours of training in a school approved by the bureau or the length of training in an apprenticeship program approved by the bureau which are required for eligibility for any examination shall apply to a person who on the effective date of the law is a student in, or has completed the prescribed course of study in, a school or is an apprentice in an apprentice program. This section shall not apply to a person who does not apply for and take the first examination for which he or she is eligible occurring after the effective date of the law, unless compliance with this requirement is waived by the bureau for good cause as defined in regulations.

SEC. 37. Section 7332 of the Business and Professions Code is amended to read:

7332. An apprentice is any person who is licensed by the bureau to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the bureau.

SEC. 38. Section 7333 of the Business and Professions Code is amended to read:

7333. The apprentice training program shall be conducted in compliance with the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code, according to apprenticeship standards approved by the administrator of apprenticeship. A copy of the act shall be maintained on file with the bureau.

SEC. 39. Section 7334 of the Business and Professions Code is amended to read:

7334. (a) The bureau may license as an apprentice in barbering, cosmetology, skin care, or nail care any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is over 16 years of age.

(2) Has completed the 10th grade in the public schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.

(b) The bureau may license as an apprentice in electrolysis any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is not less than 17 years of age.

(2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.

(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the bureau prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the bureau in a facility approved by the bureau prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in bureau regulations for courses taught in schools approved by the bureau, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 40. Section 7335 of the Business and Professions Code is amended to read:

7335. (a) The license of an apprentice shall expire two years from the date the license was issued, or on the date the apprentice is issued a license following the license examination, or if the apprentice fails the license examination twice, on the date the results of the second examination are issued, whichever occurs first.

(b) No person holding a license as an apprentice shall work more than three months after completing the required training without applying for and taking the examination for licensure.

(c) The bureau may extend the two-year or three-month period described in subdivisions (a) and (b) upon a showing of good cause which shall include, but not be limited to, delays in applying for and taking the examination caused by the illness of, or accident to, the apprentice, or service in the armed forces of the United States.

SEC. 41. Section 7336 of the Business and Professions Code is amended to read:

7336. An apprentice may do any or all of the acts for which he or she is licensed only in the licensed establishment and under the supervision and employment of a licensee approved by the bureau.

SEC. 42. Section 7337 of the Business and Professions Code is amended to read:

7337. Every application for admission to examination and licensure shall be in writing, on forms prepared and furnished by the bureau.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination and licensure. It shall be verified by the oath of the applicant. Every applicant shall, as a condition of admittance to the examination facility, present satisfactory proof of identification. Satisfactory proof of identification shall be in the form of a valid, unexpired driver's license or identification card, containing the photograph of the person to whom it was issued, issued by any state, federal, or other government entity.

SEC. 43. Section 7337.5 of the Business and Professions Code is amended to read:

7337.5. (a) The bureau shall adopt regulations providing for the submittal of applications for admission to examination of students of approved cosmetology, electrology, or barbering schools who have completed at least 75 percent of the required course clock hours and curriculum requirements (60 percent for students of the manicurist course). The regulations shall include provisions that ensure that all proof of qualifications of the applicant are received by the bureau before the applicant is examined.

(b) An application for examination submitted under this section shall be known as a ''preapplication'' and an additional preapplication fee may be required.

(c) This section shall become operative on July 1, 1992.

(d) The bureau shall administer the licensing examination not later than 10 working days after graduation from an approved cosmetology, electrology, or barbering school to students who have submitted an application for admission for examination under the preapplication procedure.

SEC. 44. Section 7338 of the Business and Professions Code is amended to read:

7338. The examination of applicants for a license shall include both a practical demonstration and a written test and shall embrace the subjects typically taught in a program approved by the bureau.

The examination shall not be confined to any particular system or method. It shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the bureau as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct and grading of examinations, practical demonstrations shall prevail over written tests.

The scope of examinations shall be consistent with the definition of the activities licensed under this chapter, and shall be as the bureau, by regulation, may require to protect the health and safety of consumers of the services provided by licensees.

The bureau's examinations shall be limited to clearly job-related questions, activities, and practical services. Examinations shall also include written tests in antisepsis, disinfection, sanitation, the use of mechanical apparatus and electricity as applicable to the practice of barbering, cosmetology, or electrolysis. They may include other demonstrations and tests as the bureau, in its discretion, may require.

SEC. 45. Section 7340 of the Business and Professions Code is amended to read:

7340. All examinations shall be prepared by or under the direction of the bureau. The bureau shall establish standards and procedures governing administration and grading and shall exercise supervision as may be necessary to assure compliance therewith.

SEC. 46. Section 7341 of the Business and Professions Code is amended to read:

7341. The bureau shall mail or deliver to every person failing any examination provided for in this chapter the total grade received on the examination.

An unsuccessful applicant for licensure, after taking an examination and within 90 days after the results thereof have been declared, shall have the right to inspect his or her examination paper in the city in which the examination was taken.

SEC. 47. Section 7342 of the Business and Professions Code is amended to read:

7342. Licenses in the practice of the occupation for which the license was sought shall be issued by the bureau to any applicant who satisfactorily passes an examination, who possesses the other qualifications required by law and who has remitted the license fee

required by this chapter. The license shall entitle the holder to engage in the practice of that occupation in a licensed establishment.

SEC. 48. Section 7344 of the Business and Professions Code is amended to read:

7344. The bureau may contract or otherwise arrange for reasonably required physical accommodations and facilities to conduct examinations.

SEC. 49. Section 7347 of the Business and Professions Code is amended to read:

7347. Any person, firm, or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the bureau may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.

SEC. 50. Section 7349 of the Business and Professions Code is amended to read:

7349. It is unlawful for any person, firm, or corporation to hire, employ, or allow to be employed, or permit to work, in or about an establishment, any person who performs or practices any occupation regulated under this chapter and is not duly licensed by the bureau, except that a licensed cosmetology establishment may utilize a student extern, as described in Section 7395.1.

Any person violating this section is subject to citation and fine pursuant to Section 7406 and is also guilty of a misdemeanor.

SEC. 51. Section 7353 of the Business and Professions Code is amended to read:

7353. Within 90 days after issuance of the establishment license, the bureau or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the bureau adopted pursuant to this chapter. The bureau shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws

relating to the public health and safety and the conduct and operation of establishments. The bureau or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The bureau shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

SEC. 52. Section 7354 of the Business and Professions Code is amended to read:

7354. For purposes of this article, ''mobile unit'' means any self-contained, self-supporting, enclosed mobile unit which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the bureau and which complies with this article and all health and safety regulations established by the bureau.

SEC. 53. Section 7355 of the Business and Professions Code is amended to read:

7355. (a) Any person, firm, or corporation desiring to operate a mobile unit shall make an application to the bureau for a license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries designated by the bureau. Operation of the unit outside of the geographical boundaries for which the license is issued shall be unlawful, unless a license for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a license in the first instance.

(b) Each application shall include the following:

(1) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit in compliance with this article.

(2) Proof of purchase or lease of the mobile unit and shop equipment.

(3) The required fee.

(4) Copies of applicable county and city licenses or permits to provide the mobile barbering, cosmetology, or electrolysis services in each county and city of operation and the locations therein where the services will be offered.

(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(6) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

(7) A permanent base address from which the mobile unit shall operate.

(c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the bureau, or representative of the bureau, for final approval.

SEC. 54. Section 7356 of the Business and Professions Code is amended to read:

7356. An application to transfer ownership or control of an existing licensed mobile unit shall be filed by the purchaser or lessor with the bureau within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.

(b) Bills of sale or lease documents proving purchase or lease of existing equipment and the mobile unit.

(c) The existing mobile unit license.

(d) The required fee.

(e) Copies of applicable city and county licenses or permits to provide the mobile services in each county and city of operation issued in the new owner's name.

(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(g) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

SEC. 55. Section 7357 of the Business and Professions Code is amended to read:

7357. (a) Mobile units shall comply with regulations adopted by the bureau that assure that the unit shall be kept clean, in good repair, and in compliance with this article.

(b) Each mobile unit shall be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply. The potable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.

(2) Continuous, on-demand hot water tanks which shall be not less than six-gallon capacity.

(3) Self-contained, recirculating, flush chemical toilet with holding tank.

(4) A covered galvanized, stainless steel, or other noncorrosive metal container for purposes of depositing hair clippings, refuse, and other waste materials.

(5) A split-lead generator with a remote starter, muffler, and a vent to the outside.

(6) A sealed combustible heater with an outside vent.

SEC. 56. Section 7359 of the Business and Professions Code is amended to read:

7359. It is unlawful for any person, firm or corporation to hire, employ, allow to be employed, or permit to work, in or about a mobile unit, any person who performs or practices any occupation regulated under this chapter who is not duly licensed by the bureau.

Any person violating this section is guilty of a misdemeanor.

SEC. 57. Section 7362 of the Business and Professions Code is amended to read:

7362. (a) A school approved by the bureau is one which is licensed by the Council for Private Postsecondary and Vocational Education, or a public school in this state, and provides a course of instruction approved by the bureau.

(b) The bureau shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

SEC. 58. Section 7362.1 of the Business and Professions Code is amended to read:

7362.1. A school of cosmetology approved by the bureau shall also meet all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 25 cosmetology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of cosmetology at least 25 bona fide, full-time students for the cosmetology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of cosmetology and has committed to attend a full course in cosmetology.

(c) Maintain a course of practical training and technical instruction for the full cosmetology course as specified in this chapter and in bureau regulations. A course of instruction in any branch of cosmetology shall be taught in a school of cosmetology.

SEC. 59. Section 7362.2 of the Business and Professions Code is amended to read:

7362.2. A school of barbering approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 15 barber students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of barbering at least 15 bona fide, full-time students for the barbering course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of barbering and has committed to attend a full course in barbering.

(c) Maintain a course of practical training and technical instruction for the full barbering course as specified in this chapter and in bureau regulations.

SEC. 60. Section 7362.3 of the Business and Professions Code is amended to read:

7362.3. A school of electrology approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of five electrology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of electrology at least five bona fide, full-time students for the electrology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of electrology and has committed to attend a full course in electrology.

(c) Maintain a course of practical training and technical instruction for the full electrology course as specified in this chapter and in bureau regulations.

SEC. 61. Section 7364 of the Business and Professions Code is amended to read:

7364. A skin care course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 62. Section 7365 of the Business and Professions Code is amended to read:

7365. A nail care course established by a school shall consist of not less than 350 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 63. Section 7366 of the Business and Professions Code is amended to read:

7366. An electrolysis course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 64. Section 7367 of the Business and Professions Code is amended to read:

7367. For students who change from one program of instruction to another, the bureau shall grant credit for training obtained in one course that is identical to training required in another course.

SEC. 65. Section 7389 of the Business and Professions Code is amended to read:

7389. The bureau shall develop or adopt a health and safety course on hazardous substances which shall be taught in schools approved by the bureau. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

SEC. 66. Section 7390 of the Business and Professions Code is amended to read:

7390. A cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 67. Section 7391 of the Business and Professions Code is amended to read:

7391. The bureau shall admit to examination for license as a cosmetology or barbering instructor any person who has made application to the bureau in the proper form, who has paid the fee required by this chapter, and who meets the following qualifications:

(a) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid license to practice cosmetology or barbering in this state.

(d) Has done at least one of the following:

(1) Completed a cosmetology or barbering instructor training course in an approved school in this state or equivalent training in an approved school in another state.

(2) Completed not less than the equivalent of 10 months of practice as a teacher assistant or teacher aide in a school approved by the bureau.

(3) Practiced cosmetology or barbering in a licensed establishment in this state for a period of one year within the three years immediately preceding application, or its equivalent in another state. An applicant using practical experience to qualify under this section shall submit an affidavit signed by his or her employers attesting to the qualifying experience.

SEC. 68. Section 7392 of the Business and Professions Code is amended to read:

7392. Each licensed instructor shall complete at least 30 clock hours of continuing education in the teaching of vocational education during

each two-year licensing period. This section does not apply to an instructor who holds a credential to teach vocational education full time in a public school in this state.

For purposes of this section, programs designed for continuing education in the teaching of vocational education may include, but not be limited to, development of understanding and competency in the learning process, instructional techniques, curriculum and media, instructional evaluation, counseling and guidance, and the special needs of students.

The bureau shall adopt regulations establishing standards for the approval of continuing education courses and for the effective administration and enforcement of its continuing education requirements.

SEC. 69. Section 7393 of the Business and Professions Code is amended to read:

7393. As a condition of the renewal of the license of an instructor, the bureau may periodically require instructors to demonstrate current competence through continuing education as provided for in this chapter.

SEC. 70. Section 7394 of the Business and Professions Code is amended to read:

7394. The bureau's continuing education requirements shall not apply to instructors whose licenses are on inactive status according to the records maintained by the bureau.

Instructors whose licenses are on inactive status may not be employed as instructors in schools approved by the bureau.

Instructors whose licenses are on inactive status must complete at least 30 hours of continuing education in the teaching of vocational education as a condition of reinstatement to active status.

SEC. 71. Section 7395 of the Business and Professions Code is amended to read:

7395. If an instructor with an active license status does not provide proof of compliance with the continuing education requirements provided for in this chapter within 45 days of a request from the bureau, the instructor's license shall revert to inactive status until proof of compliance is provided to the bureau.

SEC. 72. Section 7395.1 of the Business and Professions Code is amended to read:

7395.1. (a) A student who is enrolled in a school of cosmetology approved by the Council for Private Postsecondary and Vocational Education in a course approved by the bureau may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the bureau.

(2) The establishment has a minimum of four licensees working at the establishment, including employees and owners or managers.

(3) All licensees at the establishment are in good standing with the bureau.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and to all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the bureau.

(d) (1) A school participating in the externship program shall provide the participating establishment and the extern with a syllabus containing applicable information specified in Section 73880 of Title 5 of the California Code of Regulations. The extern, the school, and the establishment shall agree to the terms of and sign the syllabus prior to the extern beginning work at the establishment. No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

SEC. 73. Section 7396 of the Business and Professions Code is amended to read:

7396. The form and content of a license issued by the bureau shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, or cosmetology instructor.

SEC. 74. Section 7400 of the Business and Professions Code is amended to read:

7400. Every licensee of the bureau, except establishments shall, within 30 days after a change of address, notify the bureau of the new address, and, upon receipt of the notification, the bureau shall make the necessary changes in the register.

SEC. 75. Section 7403 of the Business and Professions Code is amended to read:

7403. (a) The bureau may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article 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 the powers granted therein.

(b) In any case in which the administrative law judge recommends that the bureau revoke, suspend or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the bureau the reasonable costs of the investigation and adjudication of the case. For purposes of this section, ''costs'' include charges by the bureau for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the bureau. When the bureau does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(d) The bureau may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the bureau may have as to any licensee directed to pay costs.

(e) In any judicial action for the recovery of costs, proof of the bureau's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the bureau's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 76. Section 7404 of the Business and Professions Code is amended to read:

7404. The grounds for disciplinary action are as follows:

(a) Unprofessional conduct which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence, including failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology or disregard for the health and safety of patrons.

(2) Repeated similar negligent acts.

(3) Conviction of any crime substantially related to the qualifications, functions, or duties of the license holder, in which case, the records of conviction or a certified copy shall be conclusive evidence thereof.

(4) Advertising by means of knowingly false or deceptive statements.

(b) Failure to comply with the requirements of this chapter.

(c) Failure to comply with the rules governing health and safety adopted by the bureau and approved by the State Department of Health Services, for the regulation of establishments, or any practice licensed and regulated under this chapter.

(d) Failure to comply with the rules adopted by the bureau for the regulation of establishments, or any practice licensed and regulated under this chapter.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Habitual drunkenness, habitual use of or addiction to the use of any controlled substance.

(g) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.

(h) Failure to display the license or health and safety rules and regulations in a conspicuous place.

(i) Engaging, outside of a licensed establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such service is provided because of illness or other physical or mental incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed establishment.

(j) Permitting a license to be used where the holder is not personally, actively, and continuously engaged in business.

(k) The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter.

(*l*) Refusal to permit or interference with an inspection authorized under this chapter.

(m) Any action or conduct which would have warranted the denial of a license.

(n) Failure to surrender a license that was issued in error or by mistake.

SEC. 77. Section 7405 of the Business and Professions Code is amended to read:

7405. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, 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 Section 1203.4 of the Penal Code allowing the person to withdraw his 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. 78. Section 7406 of the Business and Professions Code is amended to read:

7406. In addition to the authority to conduct disciplinary proceedings under this chapter, the bureau, through its duly authorized representatives, shall have authority to assess administrative fines for the violation of any section of this chapter or the violation of any rules and regulations adopted by the bureau under this chapter.

SEC. 79. Section 7407 of the Business and Professions Code is amended to read:

7407. The bureau shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the bureau's contingent fund.

The schedule shall indicate for each type of violation whether, in the bureau's discretion, the violation can be corrected.

SEC. 80. Section 7408 of the Business and Professions Code is amended to read:

7408. The bureau, through its duly authorized representatives, shall issue a citation with respect to any violation for which an administrative fine may be assessed. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the specific provision alleged to have been violated. The administrative fine, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to correction, as determined by the bureau pursuant to Section 7406.

SEC. 81. Section 7409 of the Business and Professions Code is amended to read:

7409. Any licensee served with a citation may avoid the payment of the associated administrative fine by presentation of written proof satisfactory to the bureau, or its bureau chief, that the violation has been corrected. This provision applies only to a licensee's first violation in any three-year period of any single provision of this chapter or the rules and regulations adopted pursuant to this chapter. Proof of correction shall be presented to the bureau, through its bureau chief, in a time and manner prescribed by the bureau. The bureau may, in its discretion, extend for a reasonable period the time within which to correct the violation upon the showing of good cause. Notices of correction filed after the prescribed date shall not be acceptable and the administrative fine shall be paid.

SEC. 82. Section 7414 of the Business and Professions Code is amended to read:

7414. Persons who fail to pay administrative fines that were not contested or were contested but the appeal has been adjudicated, shall not be issued a license or allowed to renew any licenses issued to them

until all fines are paid in addition to any application, renewal, or delinquency fees which are required.

SEC. 83. Section 7414.1 of the Business and Professions Code is amended to read:

7414.1. All records required by law to be kept by tanning facilities subject to the Filante Tanning Facility Act of 1988 (Chapter 23 (commencing with Section 22700) of Division 8), including, but not limited to, records relating to written warning statements, the sign required to be posted, the qualifications of facility operators, statements of acknowledgment, parental consent forms, and injury reports, shall be open to inspection by the bureau, or its authorized representatives, during any inspection, or during any investigation initiated in response to a complaint that the tanning facility has violated any provision of the Filante Tanning Facility Act of 1988. A copy of any or all of those records shall be provided to the bureau, or its authorized representatives, immediately upon request.

SEC. 84. Section 7414.3 of the Business and Professions Code is amended to read:

7414.3. (a) Any representative of the bureau designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Representatives so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of that designation. Except as otherwise provided, the representative's authority is limited to the issuance of written notices to appear for infraction violations of the Filante Tanning Facility Act of 1988 and only when the violation is committed in the presence of the representative.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any representative, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the representative, at the time of that arrest, had reasonable cause to believe was lawful.

(c) This section shall become effective July 1, 1994.

SEC. 85. Section 7414.4 of the Business and Professions Code is amended to read:

7414.4. The bureau, and its authorized representatives, may disseminate information to tanning facilities regarding compliance with the Filante Tanning Facility Act of 1988.

SEC. 86. Section 7414.6 of the Business and Professions Code is amended to read:

7414.6. The bureau may adopt regulations concerning the operation of tanning facilities in licensed establishments.

SEC. 87. Section 7415 of the Business and Professions Code is amended to read:

7415. Licenses issued under this chapter, unless specifically excepted, shall be issued for a two-year period and shall expire at midnight on the last day of the month of issuance by the bureau.

SEC. 88. Section 7416 of the Business and Professions Code is amended to read:

7416. The bureau shall, with the cooperation of the department, modify its license renewal applications to all licensees to designate whether or not they are currently employed in the occupation for which they are licensed.

SEC. 89. Section 7421 of the Business and Professions Code is amended to read:

7421. The fees shall be set by the bureau, within the limits set forth in this article, in amounts necessary to cover the expenses of the bureau in performing its duties under this chapter.

SEC. 90. Section 7422 of the Business and Professions Code is amended to read:

7422. All fees collected on behalf of the bureau and all receipts of every kind and nature, shall be reported to the Controller at the beginning of each month for the month preceding. At the same time the entire amount of collections shall be paid into the State Treasury, and shall be credited to the Barbering and Cosmetology Contingent Fund, which fund is hereby created.

The moneys in the contingent fund shall be appropriated to the bureau pursuant to the annual Budget Act and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect this chapter.

SEC. 91. Section 7427 of the Business and Professions Code is repealed.

SEC. 92. Section 7507 of the Business and Professions Code is amended to read:

7507. A licensee shall notify the bureau within 30 days of any change of its corporate officers or of the addition of any partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that a new officer or partner has committed any act that constitutes grounds for the denial of a license pursuant to Section 7503.5.

SEC. 93. Section 7533.5 of the Business and Professions Code is amended to read:

7533.5. (a) A licensee shall notify the bureau within 30 days of any change in its corporate officers or of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner of a licensee has committed any of the acts constituting grounds to deny an application for a license or to take disciplinary action against a licensee pursuant to Section 7538 or 7538.5, respectively.

SEC. 94. Section 7582.19 of the Business and Professions Code is amended to read:

7582.19. (a) A licensee shall notify the bureau within 30 days of any change in its corporate officers or of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner of a licensee has committed any of the acts constituting grounds to deny an application for a license or to take disciplinary action against a licensee pursuant to Section 7582.24 or 7582.25 respectively.

SEC. 95. Section 7583.20 of the Business and Professions Code is amended to read:

7583.20. (a) A registration issued under this chapter expires two years following the date of issuance or on the assigned renewal date. Every security guard issued a registration under this chapter that expires on or after January 1, 1997, and who is also issued or renews a firearms qualification card on or after January 1, 1997, shall be placed on a cyclical renewal so that the registration expires on the expiration date of the firearms qualification card. Notwithstanding any other provision of law, the bureau is authorized to extend or shorten the first term of registration following January 1, 1997, and to prorate the required registration fee in order to implement this cyclical renewal. At least 60 days prior to the expiration, a registrant seeking to renew a guard registration shall forward to the bureau a completed registration renewal application and the renewal fee. The renewal application shall be on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(b) The licensee shall provide to any employee information regarding procedures for renewal or registration.

(c) In the event a registrant fails to request a renewal of his or her registration as provided for in this chapter, the registration shall expire as indicated on the registration. If the registration is renewed within 60 days after its expiration, the registrant, as a condition precedent to renewal, shall pay the renewal fee and the delinquency fee.

(d) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(e) If the renewed registration card has not been delivered to the registrant prior to the expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

(f) A registration may not be renewed or reinstated until all fines assessed pursuant to Section 7587.7 and not resolved in accordance with the provisions of that section have been paid.

SEC. 96. Section 7599.32 of the Business and Professions Code is amended to read:

7599.32. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 7593.4 and of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 7591.10.

(c) A Notice of Warning may be issued for the first violation of this section and a fine of twenty-five dollars ($25) for each subsequent violation.

SEC. 97. Section 7601 of the Business and Professions Code is amended to read:

7601. The following terms as used in this chapter shall have meanings expressed in this section:

(a) ''Department'' means the Department of Consumer Affairs.

(b) ''Director'' means the Director of Consumer Affairs.

(c) ''Bureau'' means the Cemetery and Funeral Bureau.

SEC. 98. Section 7602 of the Business and Professions Code is amended to read:

7602. There is in the department the Cemetery and Funeral Bureau, under the supervision and control of the director.

The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to such conditions and limitations as the director may prescribe.

SEC. 99. Section 7606 of the Business and Professions Code is amended to read:

7606. The bureau may, pursuant to the provisions of the Administrative Procedure Act, adopt and enforce reasonably necessary rules and regulations relating to:

(a) The practice of embalming;

(b) The business of a funeral director;

(c) The sanitary conditions of places where such practice or business is conducted with particular regard to plumbing, sewage, ventilation and equipment;

(d) Specifying conditions for approval of funeral establishments for apprentices and for approval of embalming schools;

(e) The scope of examinations;

(f) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, welfare and morals of the public.

SEC. 100. Section 7607 of the Business and Professions Code is amended to read:

7607. The bureau may inspect the premises in which the business of a funeral director is conducted or where embalming is practiced.

SEC. 101. Section 7608 of the Business and Professions Code is amended to read:

7608. The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service regulations.

With the approval of the Director of Finance, and, subject to the provisions of Section 159.5, the bureau shall employ investigators and attorneys to assist the bureau in prosecuting violations of this chapter, whose compensation and expenses shall be payable only out of the State Funeral Directors and Embalmers Fund.

SEC. 102. Section 7610 of the Business and Professions Code is amended to read:

7610. All suits or actions commenced in the superior court against the bureau shall be filed and tried either in the County of Sacramento, or in the county of the residence of the plaintiff or petitioner, or in the county where the act occurred, which is the basis of the suit or action.

SEC. 103. Section 7616.2 of the Business and Professions Code is amended to read:

7616.2. A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

SEC. 104. Section 7618 of the Business and Professions Code is amended to read:

7618. An application for a funeral director's license shall be written on a form provided by the bureau, verified by the applicant, accompanied by the fee fixed by this chapter and filed at its Sacramento office.

SEC. 105. Section 7619.2 of the Business and Professions Code is amended to read:

7619.2. The bureau shall grant a funeral director's license to any applicant who complies with this article, notwithstanding Section 7619, if the applicant can demonstrate that he or she has complied with Section 7622 on or before July 1, 1999.

SEC. 106. Section 7621 of the Business and Professions Code is amended to read:

7621. The applicant shall also furnish the bureau with satisfactory proof that the facility in which he or she intends to conduct business as a funeral director is or will be constructed, equipped and maintained in all respects as a licensed funeral establishment as defined in this chapter.

SEC. 107. Section 7625 of the Business and Professions Code is amended to read:

7625. Upon receipt of an application for a license, the bureau shall cause an investigation to be made of the physical status or plans and specifications of the proposed funeral establishment, and of the other qualifications required of the applicant under this chapter, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

The bureau shall grant a license if it finds that the proposed funeral establishment is or will be constructed and equipped as required by this chapter and that the applicant is qualified in all other respects as required by this chapter.

SEC. 108. Section 7626 of the Business and Professions Code is amended to read:

7626. The bureau shall examine and pass upon the qualifications of the applicant as to ability and experience before passing upon the physical status or plans and specifications of the proposed funeral establishment.

SEC. 109. Section 7626.5 of the Business and Professions Code is amended to read:

7626.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 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. 110. Section 7628 of the Business and Professions Code is amended to read:

7628. Any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefor on forms furnished by the bureau and shall include a fee fixed by this chapter.

The application shall be granted by the bureau upon the filing with the bureau of a favorable report from an inspector concerning the physical status or plans and specifications of the proposed licensed funeral establishment to the effect that it conforms to the requirements of this article.

SEC. 111. Section 7629 of the Business and Professions Code is amended to read:

7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral director so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

SEC. 112. Section 7631 of the Business and Professions Code is amended to read:

7631. In case of the death of a licensed funeral director, who leaves an established business as part or all of the assets of his or her estate, the bureau may issue a special temporary license to his or her legal representative, unless the legal representative has committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 113. Section 7635 of the Business and Professions Code is amended to read:

7635. (a) Any person employed by, or an agent of, a licensed funeral establishment, who consults with the family or representatives of a family of a deceased person for the purpose of arranging for services as set forth in subdivision (a) of Section 7615, shall receive documented training and instruction which results in a demonstrated knowledge of all applicable federal and state laws, rules, and regulations including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws, rules, and regulations pertaining to the duties of a funeral director. A written outline of the training program, including documented evidence of the training time, place, and participants, shall be maintained in the funeral establishment and shall be available for inspection and comment by an inspector of the bureau.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

SEC. 114. Section 7641 of the Business and Professions Code is amended to read:

7641. It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in embalming colleges approved by the bureau.

SEC. 115. Section 7642 of the Business and Professions Code is amended to read:

7642. An application for an embalmer's license shall be written on a form provided by the bureau, verified by the applicant, and accompanied by the fee fixed by this chapter.

SEC. 116. Section 7643 of the Business and Professions Code is amended to read:

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

(d) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.

(e) Have successfully completed a course of instruction of not less than one academic year in an embalming school approved by the bureau and accredited by the American Board of Funeral Service Education.

SEC. 117. Section 7646 of the Business and Professions Code is amended to read:

7646. The bureau shall require the applicant to pass an examination, which shall include the following subjects:

(a) Theory and practice of embalming.

(b) Anatomy, including histology, embryology and dissection.

(c) Pathology and bacteriology.

(d) Hygiene, including sanitation and public health.

(e) Chemistry, including toxicology.

(f) Restorative art, including plastic surgery and demisurgery.

(g) Laws, rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

SEC. 118. Section 7647 of the Business and Professions Code is amended to read:

7647. The bureau shall examine applicants for embalmer's licenses at least once annually.

Examinations shall be held at such times and places as may be determined by the bureau.

Notice of the time and place of such examinations shall be given as determined by the bureau.

SEC. 119. Section 7647.5 of the Business and Professions Code is amended to read:

7647.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding 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. 120. Section 7650 of the Business and Professions Code is amended to read:

7650. From time to time, the bureau may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.

SEC. 121. Section 7661 of the Business and Professions Code is amended to read:

7661. An application for registration as an embalmer's apprentice shall be made upon a form provided by the bureau, verified by the applicant and accompanied by the fee fixed by this chapter.

SEC. 122. Section 7662 of the Business and Professions Code is amended to read:

7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other

state or country and that the license has never been suspended or revoked for unethical conduct.

SEC. 123. Section 7664 of the Business and Professions Code is amended to read:

7664. Certificates of apprenticeship issued pursuant to this article shall expire when the holder has been issued a license as an embalmer, or six years from the date of registration, whichever first occurs. The certificates may not be renewed, but an apprentice embalmer who has not completed his or her term of apprenticeship at the time his or her certificate expires may apply for reregistration upon compliance with Section 7661. The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but no reregistration shall have the effect of continuing the term of apprenticeship beyond the period specified in Section 7666.

SEC. 124. Section 7665 of the Business and Professions Code is amended to read:

7665. All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

(a) Shall file a report of apprenticeship as follows:

(1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.

(2) Upon change of supervising embalmer or employer, or both.

(3) Upon completion of apprenticeship.

(4) Upon application for leave of absence for a period in excess of 15 days.

(5) Upon suspending apprenticeship to attend embalming college.

(6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

SEC. 125. Section 7666 of the Business and Professions Code is amended to read:

7666. (a) The term of apprenticeship shall be two years. However if an apprentice after having served his or her apprenticeship fails to pass the examination for an embalmer's license he or she may continue for one additional term of apprenticeship, which shall be the maximum apprenticeship permitted and provided further that an apprentice may, upon filing an application therefor, be permitted to continue the apprenticeship for a period not to exceed six months, if approved, for any of the following reasons:

(1) While awaiting the processing of applications submitted to the bureau.

(2) While awaiting notification of grades of embalmers' examinations administered by the bureau.

(3) While awaiting the commencement of a class of an embalming school or college when the apprentice intends to enroll in the school or college.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the embalming college course at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the examination for an embalmer's license required in Section 7646 of this code, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending an embalming college may register as an apprentice during his or her college term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

SEC. 126. Section 7667 of the Business and Professions Code is amended to read:

7667. (a) The bureau shall have the power to grant leaves of absence and extensions of leaves of absence and approve absences during the term of apprenticeship.

(b) A leave of absence, including any extensions, shall not be approved for a longer period than an aggregate of one year.

(c) No credit will be given to an apprentice on his or her apprenticeship for the period during which he or she is absent from duty on leave.

(d) Application for a leave of absence and for an extension thereof shall be made by the apprentice on a form provided by the bureau.

(e) Upon termination of a leave of absence, the apprentice shall report that fact to the bureau within 10 days of his or her resumption of apprenticeship by returning to the bureau, his or her certificate of registration accompanied by a statement as to the resumption of apprenticeship which statement shall be certified as correct by the funeral director in whose establishment he or she is to resume his or her duties and by the embalmer under whose supervision he or she is to resume his or her apprenticeship.

(f) Failure to report within 10 days after the expiration date of any leave of absence shall be cause for cancellation of the registration of an apprentice.

SEC. 127. Section 7668 of the Business and Professions Code is amended to read:

7668. The bureau may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, if the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his or her apprenticeship.

(b) Failure to make any report required by this chapter.

(c) Absence from duty except as provided in this code.

(d) Being on duty as an apprentice while under the influence of any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of the Business and Professions Code, or alcoholic beverages or other intoxicating substances, to an extent dangerous or injurious to himself, herself, any person, or the public to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her certification.

(e) Disobedience of proper orders or instructions of his or her superior.

(f) Violation of any provision of this chapter or any rule or regulation of the bureau.

(g) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(i) Conviction of a crime substantially related to the qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy, shall be conclusive evidence of the conviction.

SEC. 128. Section 7669 of the Business and Professions Code is amended to read:

7669. An apprentice who has had his or her certificate of apprenticeship suspended or revoked may, within one year after the suspension or revocation apply for reregistration upon compliance with the law in effect at the time he or she so applies and payment of the apprentice application fee fixed by this chapter. No reregistration shall have the effect of continuing an apprenticeship beyond the period specified in Section 7666.

The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but if the previous registration has been suspended or revoked for unprofessional conduct, not more than 75 percent of the time previously served shall be credited on the reregistration.

SEC. 129. Section 7670 of the Business and Professions Code is amended to read:

7670. (a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval the funeral director shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

(1) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months immediately preceding the date of the application.

(2) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.

(3) That the licensed funeral establishment of that applicant meets the requirements of law as to equipment, cleanliness and sanitation as determined by an inspection report filed with the bureau.

(b) Licensed funeral establishments under common ownership within close geographical proximity of each other may request any of the following from the bureau:

(1) To be treated in aggregate for the purpose of meeting the requirements of paragraph (1) of subdivision (a).

(2) To designate one additional supervising embalmer per registered apprentice.

(3) To allow a registered apprentice to serve in any or all of the licensed funeral establishments requested and approved pursuant to this section.

(c) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter.

SEC. 130. Section 7685.2 of the Business and Professions Code is amended to read:

7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name

of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

SEC. 131. Section 7685.3 of the Business and Professions Code is amended to read:

7685.3. The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:

''FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, (ADDRESS), (TELEPHONE NUMBER).''

SEC. 132. Section 7685.5 of the Business and Professions Code is amended to read:

7685.5. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A funeral establishment shall prominently display and make available to any individual who, in person, inquires about funeral or

cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

SEC. 133. Section 7686 of the Business and Professions Code is amended to read:

7686. The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

SEC. 134. Section 7686.5 of the Business and Professions Code is amended to read:

7686.5. All accusations against licensees shall be filed with the bureau within two years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the bureau, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within three years after such discovery.

SEC. 135. Section 7687 of the Business and Professions Code is amended to read:

7687. Upon receipt of a complaint, the bureau may make or cause to be made such investigation as it deems necessary.

SEC. 136. Section 7690 of the Business and Professions Code is amended to read:

7690. The bureau may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting a ground for disciplinary action.

Any of the following penalties may be imposed by the bureau:

(a) Suspension of the disciplinary order.

(b) Reproval, public or private.

(c) Probation.

(d) Suspension of the right to practice.

(e) Revocation of the right to practice.

(f) Such other penalties as the bureau deems fit.

SEC. 137. Section 7708 of the Business and Professions Code is amended to read:

7708. The bureau, after a hearing, may deny the application of a funeral establishment, funeral director, embalmer, or apprentice embalmer on proof that the applicant has committed acts or crimes

constituting grounds for denial of licensure under Section 480. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

SEC. 138. Section 7709 of the Business and Professions Code is amended to read:

7709. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, 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 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. 139. Section 7711 of the Business and Professions Code is amended to read:

7711. When a funeral establishment, funeral director or embalmer has had his, or her, or its license suspended, canceled, or revoked by the bureau, the bureau, upon written application by the licensee affected, upon not less than 10 days' notice to all parties of record in the particular case, and after hearing all evidence offered in support of and in opposition to that application, may, in its discretion, and upon those terms as it may deem just, reinstate the applicant.

SEC. 140. Section 7725 of the Business and Professions Code is amended to read:

7725. Licenses issued under this chapter shall expire at 12 p.m. on January 31 of each year, if not in each instance renewed. To renew an unexpired license, the holder thereof shall on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the bureau, and pay the renewal fee prescribed by this chapter.

On or before the 10th day of December of each year, the bureau shall mail to each licensed funeral establishment, funeral director, and embalmer, addressed to him or her at his or her last known address, a notice that a renewal fee is due and payable.

SEC. 141. Section 7725.2 of the Business and Professions Code is amended to read:

7725.2. Except as otherwise provided in this article, a license which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the bureau and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days 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 7725 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within one year following its expiration, the bureau may require as a condition of renewal that the holder of the license pass an examination on the appropriate subjects provided by this chapter.

SEC. 142. Section 7725.5 of the Business and Professions Code is amended to read:

7725.5. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may obtain a new license only if the holder pays all of the fees, and meets all of the requirements, other than requirements relating to education, set forth in this chapter for obtaining an original license, except that the bureau may issue a new license to the holder without an examination if the holder establishes to the bureau's satisfaction that, with due regard for the public interest, the holder is qualified to engage in the activity in which the holder again seeks to be licensed. The bureau may, by appropriate 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.

The provisions of this section do not apply to certificates of apprenticeship.

SEC. 143. Section 7727 of the Business and Professions Code is amended to read:

7727. On or before the 10th day of each month, the department shall pay into the State Treasury and report to the State Controller all the fees received for the bureau. The fees shall be received by the State Treasurer and placed in the State Funeral Directors and Embalmers Fund, which fund is available for expenditures necessary for the proper administration of this chapter.

SEC. 144. Section 7737.3 of the Business and Professions Code is amended to read:

7737.3. All commingled preneed trust funds held by a funeral establishment shall be subject to an annual, independent certified financial audit with a copy of the audit to be submitted to the bureau for review within 120 days of the close of the fund's fiscal year. Any findings of noncompliance with existing law regarding preneed trust funds shall be identified by the auditor in a separate report for review and action by

the bureau. Audits and reports of noncompliance shall be filed simultaneously.

SEC. 145. Section 7740 of the Business and Professions Code is amended to read:

7740. The bureau is authorized to enforce of its own initiative the provisions of this article and may adopt such rules and regulations as in its opinion may be necessary to perform such duties and to safeguard the trust funds subject to this chapter.

SEC. 146. Section 7740.5 of the Business and Professions Code is amended to read:

7740.5. A funeral establishment shall pay to the bureau the fee fixed by this chapter for filing with the bureau any report on preneed trust funds required by rules and regulations of the bureau adopted pursuant to Section 7740.

SEC. 147. Section 9603 of the Business and Professions Code is amended to read:

9603. The following terms as used in this chapter shall have the meanings expressed in this section:

(a) ''Department'' means the Department of Consumer Affairs.

(b) ''Director'' means the Director of Consumer Affairs.

(c) ''Bureau'' means the Cemetery and Funeral Bureau.

SEC. 148. Section 9625 of the Business and Professions Code is amended to read:

9625. There is in the department, the Cemetery and Funeral Bureau, under the supervision and control of the director.

The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

SEC. 149. Section 9630 of the Business and Professions Code is amended to read:

9630. The bureau may establish necessary rules and regulations for the administration and enforcement of this act and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this act. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

SEC. 150. Section 9631 of the Business and Professions Code is amended to read:

9631. In the enforcement of this act and the laws subject to its jurisdiction, the bureau has all the powers and is subject to all the responsibilities vested in and imposed upon the head of a department

under Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 151. Section 9650 of the Business and Professions Code is amended to read:

9650. (a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 9650.1, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 9659.

(5) A statement showing the transactions entered into between the corporation or any officer, employee or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) shall be accompanied by an annual audit report of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an additional 30 days within which to file the report.

SEC. 152. Section 9650.1 of the Business and Professions Code is amended to read:

9650.1. Each cemetery authority requesting a change of filing date of the endowment care fund report from a calendar year to a fiscal year or a change in fiscal year shall file a petition with the bureau prior to the close of the year of request. The bureau may approve such petition provided that no report shall be for a period of more than 12 months.

SEC. 153. Section 9650.2 of the Business and Professions Code is amended to read:

9650.2. The report shall state the name of the trustee or trustees of the endowment care fund. Any change of trustee shall be reported to the bureau within a period of 30 days after the change is made.

SEC. 154. Section 9650.3 of the Business and Professions Code is amended to read:

9650.3. A copy of each annual audit report shall be transmitted to the bureau and shall be a public record. It shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

SEC. 155. Section 9650.4 of the Business and Professions Code is amended to read:

9650.4. (a) Any cemetery authority that does not file its report within the time prescribed by Section 9650 may be assessed a fine by the bureau in an amount not to exceed four hundred dollars ($400) per month for a maximum of five months. The amount of the fine shall be established by regulation 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). Failure to pay the fine within 15 days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed, within 15 days after receipt of written notification of the bureau's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request therefor. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau may waive or reduce the fine where a timely request is made and where it determines, in its discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

SEC. 156. Section 9651 of the Business and Professions Code is amended to read:

9651. The bureau shall examine the reports filed with it as to their compliance with the requirements of the Health and Safety Code as to

the amount of endowment care funds collected and as to the manner of investment of such funds.

SEC. 157. Section 9652 of the Business and Professions Code is amended to read:

9652. The bureau shall examine the endowment care funds of a cemetery authority:

(a) Whenever it deems necessary and at least once every five years;

(b) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this article; or

(c) Whenever the accountant or auditor qualifies his or her certification of the report that is prepared and signed by a certified public accountant licensed in the state and prepared in accordance with Section 9650.

(d) The reasonable and necessary cost of the examination performed under subdivision (b) or (c) shall be paid by the cemetery authority.

A certified copy of the actual costs, or a good faith estimate of the costs where actual costs are not available, signed by the director or his or her designee, shall be prima facie evidence of the reasonable and necessary costs of the examination.

The actual and necessary expense of the examination under subdivision (a) shall, in the discretion of the bureau, be paid by the cemetery authority whenever the examination requires more than one day and the need for continuing the examination is directly related to identified omissions and errors in the management of endowment care funds.

SEC. 158. Section 9652.1 of the Business and Professions Code is amended to read:

9652.1. If any cemetery authority refuses to pay such expenses, the bureau shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the bureau shall be paid into the State Treasury to the credit of the Cemetery Fund.

SEC. 159. Section 9653 of the Business and Professions Code is amended to read:

9653. (a) In making the examination the program:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the bureau, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds.

If a cemetery authority fails to reasonably comply with this request, the bureau may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

SEC. 160. Section 9654 of the Business and Professions Code is amended to read:

9654. The bureau may administer oaths and examine under oath any person relative to the endowment care fund. Such examination shall be conducted in the principal office of the person or body in charge of the endowment care fund and shall be private.

SEC. 161. Section 9655 of the Business and Professions Code is amended to read:

9655. If any examination made by the bureau, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by the Health and Safety Code since September 19, 1939, the bureau shall require such cemetery corporation to comply with Sections 8743 and 8744 of the Health and Safety Code.

SEC. 162. Section 9656 of the Business and Professions Code is amended to read:

9656. Whenever the bureau finds, after notice and hearing, that any endowment care funds have been invested in violation of the Health and Safety Code, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity to that code within a period which shall be not less than two years if the investment was made prior to October 1, 1949, not less than six months if the investment was made on or after October 1, 1949, and before the effective date of the amendment of this section by the 1969 Regular Session of the Legislature, and not less than 30 days if the investment is made on or after the effective date of the amendment. The period may be extended by the bureau in its discretion.

SEC. 163. Section 9656.1 of the Business and Professions Code is amended to read:

9656.1. The superior court of the county in which the principal office of the cemetery authority in charge of endowment care funds is located shall, upon the filing by the bureau of a verified application showing any of the following conditions hereinafter enumerated to exist, issue its order vesting title to any endowment care funds of a cemetery authority in the bureau, and directing the bureau forthwith to take possession of all necessary books, records, property, real and personal, and assets, and to conduct as conservator, the management of such endowment care funds, or so much thereof as to the bureau may seem appropriate:

(a) That the cemetery authority has refused to submit its books, papers, accounts, or affairs to the reasonable examination of the bureau.

(b) That the cemetery authority has neglected to observe an order of the bureau to make good within the time prescribed by law any deficiency in its investments of endowment care funds.

(c) That the cemetery authority is found, after an examination, to be in such condition that its further management of its endowment care funds will be hazardous to its members, plotholders, or to the public.

(d) That the cemetery authority has violated its articles of incorporation or any law of the state.

(e) That any officer, director, agent, servant or employee of the cemetery authority person refuses to be examined under oath relative to the endowment care funds thereof.

(f) That any person has embezzled or otherwise wrongfully diverted any of the endowment care funds of the cemetery authority.

The order shall continue in force and effect until, on the application either of the bureau or of the cemetery authority, it shall, after a full hearing, appear to the court that the ground for the order does not exist or has been removed and that the cemetery authority can properly resume title and possession of its property and the management of its endowment care funds.

SEC. 164. Section 9656.2 of the Business and Professions Code is amended to read:

9656.2. When it has been alleged by verified petition pursuant to Section 9652 or when the bureau on its own investigation determines that there is probable cause to believe that any of the conditions set forth in Section 9656.1 exist or that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred or may occur unless the bureau so acts immediately, the bureau, without notice and before applying to the court for any order, may take possession of the endowment care funds and the books, records, and accounts relating thereto of the cemetery authority, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any assets, books or records of a cemetery authority against which a seizure order has been issued by the bureau shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment not exceeding one year, or by both that fine and imprisonment.

SEC. 165. Section 9656.25 of the Business and Professions Code is amended to read:

9656.25. If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the bureau holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action

that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 166. Section 9656.3 of the Business and Professions Code is amended to read:

9656.3. Whenever the bureau makes any seizure as provided in Section 9656.2, it shall, on demand of the bureau, be the duty of the sheriff of any county of this state, and of the police department of any municipal corporation therein, to furnish the bureau with deputies, patrolmen or officers as may be necessary to assist the bureau in making and enforcing that seizure.

SEC. 167. Section 9656.4 of the Business and Professions Code is amended to read:

9656.4. Immediately after effecting a seizure pursuant to Section 9656.2, the bureau shall institute a proceeding as provided for in Section 9656.1.

SEC. 168. Section 9656.45 of the Business and Professions Code is amended to read:

9656.45. Notwithstanding any other provision of law, the bureau shall be the custodian of all moneys collected or surrendered pursuant to Sections 9656.1 and 9656.2. As custodian, the bureau may deposit those moneys, or any part thereof, without court approval, in any of the following: a bank or trust company legally authorized and empowered by the state to act as a trustee in the handling of trust funds; in a centralized State Treasury system bank account; or in funds administered by the State Treasurer.

SEC. 169. Section 9656.5 of the Business and Professions Code is amended to read:

9656.5. The bureau shall maintain, regulate, operate, and control the property situated in Amador County, referred to as the Elkin Property in Judicial Council Coordination Proceedings Nos. 1814 and 1817, Order Re Proposed Neptune Memorial, Disposition of the Elkin Property, and Order Re Final Disposition of Ashes of the Sacramento Superior Court, and legally described as ''Parcel 16-B as shown on the certain Record or Survey for Eugene S. Lowrance, et ux, filed for record May 17, 1971, in Book 17 of Maps and Plats at page 87, Amador County Records.'' The bureau shall administer and supervise endowment funds established by the court for the property. The bureau shall exercise the authority granted

by this section for the sole purpose of protecting the human remains resting on the property and preserving the property in its natural state.

SEC. 170. Section 9657 of the Business and Professions Code is amended to read:

9657. The bureau is authorized to bring action to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the Attorney General.

SEC. 171. Section 9658 of the Business and Professions Code is amended to read:

9658. The bureau shall enforce and administer Part 1 (commencing with Section 8100), Part 3 (commencing with Section 8250), and Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

SEC. 172. Section 9659 of the Business and Professions Code is amended to read:

9659. In any report to the bureau all bonds, debentures or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

(a) If purchased at par at the par value.

(b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.

(c) In such valuation the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

SEC. 173. Section 9662 of the Business and Professions Code is amended to read:

9662. The current address, telephone number, and name of the bureau shall appear on the first page of any contract for goods and services offered by a cemetery authority or crematory. At a minimum, the information shall be in 8-point boldface type and make the following statement:

"FOR MORE INFORMATION ON CEMETERY AND CREMATION MATTERS, CONTACT: THE CEMETERY AND FUNERAL BUREAU, (ADDRESS), (TELEPHONE NUMBER)."

A cemetery authority or crematory operator shall supply the above information in writing when presenting a sales contract to any individual.

SEC. 174. Section 9663 of the Business and Professions Code is amended to read:

9663. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The

funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A cemetery authority shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

SEC. 175. Section 9676 of the Business and Professions Code is amended to read:

9676. No person shall engage in the business of, act in the capacity of, advertise or assume to act as, a cemetery broker or cemetery salesperson in this state without first obtaining a license from the bureau.

SEC. 176. Section 9679 of the Business and Professions Code is amended to read:

9679. No cemetery broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed cemetery broker, or a cemetery salesperson licensed under the cemetery broker employing or compensating him or her. No cemetery salesperson shall be employed by or accept compensation from any person other than the cemetery broker under whom he or she is at the time licensed.

No salesperson shall pay any compensation for performing any of the acts within the scope of this article to any licensee except through the cemetery broker under whom he or she is at the time licensed.

For a violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 177. Section 9680 of the Business and Professions Code is amended to read:

9680. It is a misdemeanor, punishable by a fine not exceeding one hundred dollars ($100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payer that he or she is a licensed cemetery broker at the time such compensation is earned.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 178. Section 9682 of the Business and Professions Code is amended to read:

9682. Any cemetery salesperson or cemetery broker who sells, causes to be sold, or offers for sale any cemetery property upon the promise, guarantee or representation to the purchaser that the same may be resold or repurchased at a financial profit is guilty of a misdemeanor.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery salesperson or cemetery broker in accordance with the provisions of this act relating to disciplinary proceedings.

No violation of any of the provisions of this section by any cemetery salesperson or employee of any licensed cemetery broker shall cause the suspension or revocation of the license of the employer of the salesperson or employee unless it appears upon a hearing by the bureau that the employer had guilty knowledge of such violation.

SEC. 179. Section 9683 of the Business and Professions Code is amended to read:

9683. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution, or circularization of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes it to be issued, circulated, published or distributed, or who in any other respect willfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the bureau under the provisions of this act relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he or she shall be held to trial by the bureau for a suspension or revocation of this cemetery license, as provided in the provisions of this act relating to disciplinary proceedings.

SEC. 180. Section 9685 of the Business and Professions Code is amended to read:

9685. For violation of any of the provisions of Section 9684 the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 181. Section 9700 of the Business and Professions Code is amended to read:

9700. Application for license as a cemetery broker shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the original cemetery broker's license fee.

SEC. 182. Section 9700.5 of the Business and Professions Code is amended to read:

9700.5. The bureau shall not grant an original cemetery broker's license to any person who is not a resident of this state. Change of residence to another state shall terminate the license.

SEC. 183. Section 9700.6 of the Business and Professions Code is amended to read:

9700.6. The bureau shall not grant an original cemetery broker's license to any person who has not held a cemetery salesperson's license for at least two years prior to the date of his or her application for the broker's license, and during that time was not actively engaged in the business of a cemetery salesperson except that if an applicant for a cemetery broker's license having at least the equivalent of two years' general cemetery experience files a written petition with the bureau setting forth his or her qualifications and experience and the bureau approves, he or she may be issued a cemetery broker's license immediately upon passing the appropriate examinations and satisfying the other requirements of this article.

SEC. 184. Section 9701 of the Business and Professions Code is amended to read:

9701. Application for license as a cemetery salesperson shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be signed by the applicant, and shall be accompanied by the cemetery salesperson's license fee.

SEC. 185. Section 9702.1 of the Business and Professions Code is amended to read:

9702.1. The bureau shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the license applied for to an applicant on a showing satisfactory to it that the following facts exist:

(a) The applicant is properly qualified to perform the duties of a cemetery broker or salesperson.

(b) Granting the license will not be against public interest.

(c) The applicant intends actively and in good faith to carry on the business of a cemetery broker or a cemetery salesperson.

(d) In the case of a corporate applicant, the articles of incorporation permit it to act as a cemetery broker.

(e) In the case of an association or copartnership applying for such a license its articles of association or agreement of partnership authorize it to act as a cemetery broker.

(f) The license is not being secured for the purpose of permitting the applicant to advertise as a cemetery broker or salesperson without actually engaging in such business.

(g) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 186. Section 9702.2 of the Business and Professions Code is amended to read:

9702.2. All cemetery brokers who do not possess a certificate of authority shall in addition to the requirements of this chapter file with the bureau a satisfactory bond to the people of the State of California, duly executed by a sufficient surety or sureties to be approved by the bureau, in the amount of ten thousand dollars ($10,000). That bond shall be conditioned for the honest and faithful performance by such broker and his or her salespersons and employees of any undertaking as a licensed cemetery broker or salesperson or employee of said broker at any time when licensed under this chapter, and the strict compliance with the provisions of this chapter and of Division 8 of the Health and Safety Code relating to cemeteries, and the honest and faithful application of all funds received. That bond shall be further conditioned upon the payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this chapter or of Division 8 of the Health and Safety Code relating to cemeteries, or by reason of the violation of the obligation of such broker as an agent, as such obligations are laid down by the Civil Code of the State of California, or by reason of any fraud connected with or growing out of any transactions contemplated by this chapter or Division 8 of the Health and Safety Code.

SEC. 187. Section 9702.5 of the Business and Professions Code is amended to read:

9702.5. The bureau shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent or member thereof through whom it proposes to act as a cemetery licensee has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of:

(1) Cemetery associations, cemetery corporations and duties of directors.

(2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.

(3) Establishing, dedicating, maintaining, managing, operating, improving and conducting a cemetery.

(4) The care, preservation and embellishment of cemetery property.

(5) The care and preservation of endowment care funds, trust funds, and the investment thereof.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of cemetery brokerage practice and

the business ethics pertaining thereto, as well as of the provisions of this act relating to cemetery brokerage.

SEC. 188. Section 9703 of the Business and Professions Code is amended to read:

9703. The bureau may, in its discretion, waive the examination of any applicant for a cemetery broker's license who held an unrevoked or unsuspended cemetery license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

SEC. 189. Section 9704 of the Business and Professions Code is amended to read:

9704. An application on the form prescribed by the bureau for the renewal of any unrevoked and unsuspended license filed before midnight of June 30th of the year for which such unrevoked and unsuspended license was issued, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his or her existing license after its usual expiration date, if not previously suspended or revoked, and until such date as he or she is notified in writing that the application has been granted or denied.

SEC. 190. Section 9705 of the Business and Professions Code is repealed.

SEC. 191. Section 9710 of the Business and Professions Code is amended to read:

9710. Immediately upon the salesperson's withdrawal from the employ of the broker, the broker shall return the salesperson's license to the bureau for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of the license.

SEC. 192. Section 9711 of the Business and Professions Code is amended to read:

9711. Every licensed cemetery broker shall have and maintain a definite place of business in this state which shall serve as his or her office for the transaction of business.

No cemetery license authorizes the licensee to do business except from the location for which the cemetery license was issued.

Notice in writing shall be given the bureau of change of business location of a cemetery broker, whereupon the bureau shall issue a new cemetery license for the unexpired period. The change or abandonment of business location without notification to the bureau shall automatically cancel the license theretofore issued.

SEC. 193. Section 9712 of the Business and Professions Code is amended to read:

9712. If the applicant for a cemetery broker's license maintains more than one place of business within the state he or she shall apply for

and procure an additional license for each branch office so maintained. Every such application shall state the name of the person and the location of the place of business for which such license is desired.

The bureau may determine whether or not a broker is doing a cemetery brokerage business at or from any particular location which requires him or her to have a branch office license.

SEC. 194. Section 9713 of the Business and Professions Code is amended to read:

9713. Each cemetery broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he or she is a licensed cemetery broker and his or her name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the bureau.

SEC. 195. Section 9714 of the Business and Professions Code is amended to read:

9714. For a violation of any of the provisions of Sections 9709, 9710, 9711 and 9713, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 196. Section 9715 of the Business and Professions Code is amended to read:

9715. Application for a certificate of authority shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this act and shall show that the cemetery authority owns or is actively operating a cemetery in this state which is subject to the provisions of the Cemetery Act or that the applicant is in a position to commence operating a cemetery.

SEC. 197. Section 9716 of the Business and Professions Code is amended to read:

9716. The bureau may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable.

SEC. 198. Section 9717 of the Business and Professions Code is amended to read:

9717. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for certificates of authority. In reviewing an application for a certificate of authority, the bureau may consider acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a certificate of authority under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a certificate of authority, the bureau may cause an investigation to be made of the physical status, plans, specifications and financing of the proposed cemetery, and any other qualifications required of the applicant under this act, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this section, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars ($400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars ($900).

SEC. 199. Section 9718 of the Business and Professions Code is amended to read:

9718. The bureau may, in accordance with its rules and regulations, authorize interments in cemeteries for which there is no currently valid certificate of authority outstanding if the bureau finds that rights to interment therein will otherwise be impaired. However, nothing in this section authorizes sales of lots, vaults, or niches by cemeteries for which there is no currently valid certificate of authority. Interments permitted under this section shall be conducted by persons authorized by the bureau in accordance with its regulations, and Section 9768 shall not be applicable to such interments.

The bureau or its representative shall be entitled to inspect and copy any cemetery records necessary to the performance of interments under this section, and any person having custody of those records shall permit inspection and copying thereof for that purpose. The bureau may apply to the superior court for the county in which the cemetery is located for an order temporarily transferring custody of cemetery records to it for purposes of this section.

SEC. 200. Section 9719 of the Business and Professions Code is amended to read:

9719. The bureau shall inspect the books, records, and premises of any crematory licensed under this chapter or any certificate of authority holder operating a crematory. In making those inspections, the bureau shall have access to all books and records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the crematory is in operation. No prior notification of the inspection is required to be given to the certificate of authority holder or the crematory licensee. If any certificate of authority holder or any crematory licensee fails to allow that inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other

disciplinary action against the licensee. In the case of a certificate of authority holder, the suspension, revocation, or other disciplinary action may be limited to the operation of the crematory. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

SEC. 201. Section 9720 of the Business and Professions Code is amended to read:

9720. The bureau shall annually conduct a minimum of one unannounced inspection of each licensed crematory.

SEC. 202. Section 9726 of the Business and Professions Code is amended to read:

9726. The bureau may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee in performing or attempting to perform any of the acts specified in this act, has been guilty of any of the following:

(a) Making any substantial misrepresentation.

(b) Making any false statement of a character likely to influence or persuade.

(c) A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salespersons.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his or her principal with his or her own.

(f) The practice of claiming or demanding a fee, compensation or commission under any exclusive agreement authorizing or employing a licensee to sell, buy or exchange cemetery property for compensation or commission where such agreement does not contain a definite, specified date of final and complete termination.

(g) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission or profit or the failure of a licensee to reveal to the employer of such licensee the full amount of such licensee's compensation, commission or profit under any agreement authorizing or employing such licensee to sell, buy or exchange cemetery property for compensation or commission prior to or coincident with the signing of such agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.

(h) The use by a licensee of any provision allowing the licensee an option to purchase in an agreement authorizing or employing such licensee to sell, buy, or exchange cemetery property for compensation or commission, except when such licensee prior to or coincident with election to exercise such option to purchase reveals in writing to the employer the full amount of licensee's profit and obtains the written consent of the employer approving the amount of such profit.

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

The misrepresentations and false statements mentioned in this section include also misrepresentation and false statements as to other property than that which the cemetery licensee may be selling or attempting to sell.

SEC. 203. Section 9727 of the Business and Professions Code is amended to read:

9727. The bureau may suspend or revoke the license of any cemetery licensee who, within the immediately preceding three years, has done any of the following:

(a) Been convicted of a crime substantially related to the qualifications, functions and duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business or any cemetery property offered for sale.

(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery brokerage.

(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a cemetery license, or for a renewal thereof.

SEC. 204. Section 9727.1 of the Business and Professions Code is amended to read:

9727.1. The bureau may suspend or revoke the license of any cemetery licensee who procures a cemetery license, for himself or herself or any salesperson, by fraud, misrepresentation or deceit. An action to suspend or revoke a license for a violation of the provisions of this section shall be commenced within three years after the discovery by the bureau of that violation.

SEC. 205. Section 9727.2 of the Business and Professions Code is amended to read:

9727.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of

this article. The bureau may order the license suspended or revoked, 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. 206. Section 9728 of the Business and Professions Code is amended to read:

9728. When any salesperson is discharged by his or her employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the bureau by the employer and, if the employer fails to notify the bureau as required by this section, the bureau may temporarily suspend or permanently revoke the cemetery license of the employer in accordance with the provisions of this act.

SEC. 207. Section 9729 of the Business and Professions Code is amended to read:

9729. The bureau may deny, suspend or revoke the cemetery license of a corporation as to any officer or agent acting under its cemetery license, and the cemetery license of a copartnership as to any member acting under its cemetery license, without revoking the cemetery license of the corporation or of the copartnership.

SEC. 208. Section 9730 of the Business and Professions Code is amended to read:

9730. The fees for cemetery licenses at all periods of the fiscal year is the same as provided in this article. All cemetery license fees are payable in advance of issuing the licenses and at the time of filing the application. All licenses shall be issued for the fiscal year and shall expire on June 30th of each fiscal year at midnight.

SEC. 209. Section 9737 of the Business and Professions Code is amended to read:

9737. The proceedings under this article 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 the powers granted therein.

SEC. 210. Section 9740 of the Business and Professions Code is amended to read:

9740. No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory

license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

SEC. 211. Section 9741 of the Business and Professions Code is amended to read:

9741. (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

SEC. 212. Section 9741.1 of the Business and Professions Code is amended to read:

9741.1. The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

SEC. 213. Section 9742 of the Business and Professions Code is amended to read:

9742. All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

SEC. 214. Section 9744.5 of the Business and Professions Code is amended to read:

9744.5. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the

person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and phone number of any storage facility being used by the registrant to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

SEC. 215. Section 9745 of the Business and Professions Code is amended to read:

9745. 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.

SEC. 215.5. 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 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. 216. Section 9746 of the Business and Professions Code is amended to read:

9746. All cremated remains disposer registrations shall expire at midnight on September 30th of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

SEC. 217. Section 9749.5 of the Business and Professions Code is amended to read:

9749.5. A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725). Any violation of this article shall also be grounds for disciplinary action.

SEC. 218. Section 9751 of the Business and Professions Code is amended to read:

9751. The original cemetery broker's license fee shall be fixed by the bureau at not more than four hundred dollars ($400).

SEC. 219. Section 9752 of the Business and Professions Code is amended to read:

9752. The original cemetery broker's license fee is payable at the time of the filing of an application for an original cemetery broker's license.

If the applicant fails the required written examination, he or she may be permitted to take another examination upon the filing of an application for reexamination and the payment of a reexamination fee. This reexamination fee shall be fixed by the bureau at not more than one hundred dollars ($100).

No part of any original cemetery broker's license fee or reexamination fee is refundable. It is deemed earned upon receipt by the bureau, whether the accompanying application for a license is complete or incomplete.

SEC. 220. Section 9753 of the Business and Professions Code is amended to read:

9753. The annual renewal fee for a cemetery broker's license shall be fixed by the bureau at not more than three hundred dollars ($300).

SEC. 221. Section 9754 of the Business and Professions Code is amended to read:

9754. If the licensee is a cemetery brokerage corporation, the license issued to it entitles one officer only, on behalf of the corporation, to engage in the business of a cemetery broker without the payment of a further fee, that officer to be designated in the application of the corporation for a license. For each other officer of a licensed cemetery

brokerage corporation, through whom it engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the corporation, shall be fixed by the bureau at not more than one hundred dollars ($100).

SEC. 222. Section 9755 of the Business and Professions Code is amended to read:

9755. If the licensee is a cemetery brokerage copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of a cemetery broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the copartnership, shall be fixed by the bureau at not more than one hundred dollars ($100).

SEC. 223. Section 9756 of the Business and Professions Code is amended to read:

9756. The cemetery salesperson's license fee shall be fixed by the bureau at not more than thirty dollars ($30).

SEC. 224. Section 9758 of the Business and Professions Code is repealed.

SEC. 225. Section 9759 of the Business and Professions Code is amended to read:

9759. The annual renewal fee for a cemetery salesperson's license shall be fixed by the bureau at not more than twenty-five dollars ($25).

SEC. 226. Section 9760 of the Business and Professions Code is amended to read:

9760. For a branch office broker's license, the fee shall be fixed by the bureau at not more than one hundred dollars ($100).

SEC. 227. Section 9761 of the Business and Professions Code is amended to read:

9761. For change of name or of address of licensee on the records of the bureau, the fee shall be fixed by the bureau at not more than twenty-five dollars ($25).

SEC. 228. Section 9762 of the Business and Professions Code is amended to read:

9762. For transfer of a salesperson's license on change of employer, the fee shall be fixed by the bureau at not more than twenty-five dollars ($25).

SEC. 229. Section 9763 of the Business and Professions Code is amended to read:

9763. For a duplicate license the fee shall be fixed by the bureau at not more than twenty-five dollars ($25).

SEC. 230. Section 9764 of the Business and Professions Code is amended to read:

9764. For reinstatement of a license within the fiscal year, the fee shall be fixed by the bureau at not more than twenty-five dollars ($25).

As used in this section, ''reinstatement of a license'' means the reissuance of a canceled cemetery broker's license, or a cemetery salesperson's license which was canceled during the year for which it was issued upon the salesperson's withdrawal from the employ of a cemetery broker.

SEC. 231. Section 9765 of the Business and Professions Code is amended to read:

9765. Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery to be fixed by the bureau at not more than four hundred dollars ($400). In addition to an annual regulatory charge for each cemetery, an additional quarterly charge of not more than eight dollars and fifty cents ($8.50) for each burial, entombment, or inurnment, and not more than eight dollars and fifty cents ($8.50) for each cremation made during the preceding quarter shall be paid to the department and these charges shall be deposited in the Cemetery Fund. If the cemetery authority performed the cremation and either the burial, entombment, or inurnment, the total of all additional charges shall be not more than eight dollars and fifty cents ($8.50).

Notwithstanding any other provision of law, including any provision contained in the Budget Act of 1996, this section shall remain in effect until the loans authorized by Chapter 38, Statutes of 1996, and by Chapter 162, Statutes of 1996, are repaid, with interest at the rate accruing to moneys in the Pooled Money Investment Account, but no later than April 1, 2003, pursuant to a loan repayment plan approved by the Department of Finance.

SEC. 232. Section 9766 of the Business and Professions Code is amended to read:

9766. Upon payment of the charges set forth, the bureau shall issue a renewal of the certificate of authority to the cemetery authority.

SEC. 233. Section 9767 of the Business and Professions Code is amended to read:

9767. Failure to pay the charges set forth by Section 9765 of this code prior to February 1st for each year shall be cause for suspension of the certificate of authority. The certificate may be restored upon payment to the bureau of the prescribed charges.

SEC. 234. Section 9769 of the Business and Professions Code is amended to read:

9769. All moneys received by the bureau under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the bureau to the Controller at least once a month, and at

the same time these moneys shall be remitted to the Treasurer, and, upon order of the Controller, shall be deposited in the Cemetery Fund in the State Treasury, which fund is hereby created.

SEC. 235. Section 9780 of the Business and Professions Code is amended to read:

9780. A crematory established, operated, or maintained, other than by a licensed cemetery authority, may be operated by a corporation, partnership, or natural person, provided that a valid crematory license shall have been issued by the bureau.

SEC. 236. Section 9781 of the Business and Professions Code is amended to read:

9781. Application for a crematory license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this article and shall show that the applicant owns or is actively operating a crematory in this state or that the applicant is in a position to commence operating such a crematory.

SEC. 237. Section 9782 of the Business and Professions Code is amended to read:

9782. The bureau may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to the applicant and shall not issue such crematory license until it has satisfied itself that the public interest will be served by such applicant.

SEC. 238. Section 9783 of the Business and Professions Code is amended to read:

9783. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for a crematory license. In reviewing an application for a crematory license, the bureau may consider acts of the applicant, including acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a crematory license under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a crematory license, the bureau may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed crematory, the character of the applicant, including, if applicable, its officers, directors, shareholders, or members, and any other qualifications required of the applicant under this article, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this article, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars ($400) to defray the expenses of

investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars ($900).

SEC. 239. Section 9784 of the Business and Professions Code is amended to read:

9784. No crematory licensee under this article shall conduct any cremations:

(a) Unless the licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of the licensee for cremation, disposition, and other services rendered, and any other contractual provisions as may be required by the bureau.

(b) Of any remains more than 24 hours after delivery of the remains, unless the remains have been preserved in the interim by refrigeration or embalming.

(c) Unless the licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

SEC. 240. Section 9785 of the Business and Professions Code is amended to read:

9785. Each crematory licensee shall keep such records as may be required by the bureau to assure compliance with all laws relating to the disposition of cremated human remains and shall file annually with the bureau, a report in the form prescribed by the bureau, describing the operations of the licensee, including the number of cremations made, the disposition thereof, and any other information as the bureau may, from time to time, require.

SEC. 241. Section 9786 of the Business and Professions Code is amended to read:

9786. Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory, to be fixed by the bureau at not more than four hundred dollars ($400). In addition to an annual regulatory charge for each crematory, every licensee operating a crematory pursuant to a license issued pursuant to this article shall pay an additional charge of not more than eight dollars and fifty cents ($8.50) per cremation made during the preceding quarter, which charges shall be deposited in the Cemetery Fund.

Notwithstanding any other provision of law, including any provision contained in the Budget Act of 1996, this section shall remain in effect until the loans authorized by Chapter 38, Statutes of 1996, and by Chapter 162, Statutes of 1996, are repaid, with interest at the rate accruing to moneys in the Pooled Money Investment Account, but no later than April 1, 2003, pursuant to a loan repayment plan approved by the Department of Finance.

SEC. 242. Section 9787 of the Business and Professions Code is amended to read:

9787. Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified as such in accordance with rules adopted by the bureau. Each manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code of this state.

SEC. 243. Section 9789 of the Business and Professions Code is amended to read:

9789. A crematory licensee shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725).

SEC. 244. Section 8113.6 of the Health and Safety Code is amended to read:

8113.6. Notwithstanding any other provision of law, any cemetery that violates any of the requirements of this chapter shall be subject to disciplinary action by the Cemetery and Funeral Bureau.

SEC. 245. Section 8343 of the Health and Safety Code is amended to read:

8343. A crematory shall maintain on its premises, or other business location within the State of California, an accurate record of all cremations performed, including all of the following information:

(a) Name of referring funeral director, if any.

(b) Name of deceased.

(c) Date of cremation.

(d) Name of cremation chamber operator.

(e) Time and date that body was inserted in cremation chamber.

(f) Time and date that body was removed from cremation chamber.

(g) Time and date that final processing of cremated remains was completed.

(h) Disposition of cremated remains.

(i) Name and address of authorizing agent.

(j) The identification number assigned to the deceased pursuant to Section 8344.

(k) A photocopy of the disposition permit filed in connection with the disposition.

This information shall be maintained for at least 10 years after the cremation is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

SEC. 246. Section 8344 of the Health and Safety Code is amended to read:

8344. A crematory shall maintain an identification system allowing identification of each decedent beginning from the time the crematory accepts delivery of human remains until the point at which it releases the cremated remains to a third party. After cremation, an identifying disk, tab, or other permanent label shall be placed within the urn or cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label shall have a unique number that shall be recorded on all paperwork regarding the decedent's case and in the crematory log. Each crematory shall maintain a written procedure for identification of remains.

On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau to produce a written procedure for identification of remains, shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

SEC. 247. Section 8344.5 of the Health and Safety Code is amended to read:

8344.5. A crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

SEC. 248. Section 8346.5 of the Health and Safety Code is amended to read:

8346.5. Every crematory operator, or duly authorized representative shall provide to any person who inquires in person, a written, or printed list of prices for cremation and storage, cremation containers, cremated remains containers and urns, and requirements for cremation containers. This information shall be provided over the telephone when requested. Commencing July 1, 1994, any written or printed list shall identify the crematorium and shall contain, at a minimum, the current address and phone number of the Cemetery and Funeral Bureau in 8-point boldface type, or larger.

SEC. 249. Section 8347 of the Health and Safety Code is amended to read:

8347. (a) The crematory licensee, or his or her authorized representative shall provide instruction to all crematory personnel involved in the cremation process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during cremation, operation of the cremation chamber and processing equipment and all laws relevant to the handling of a body and cremated remains. This instruction shall be outlined in a written plan maintained by the crematory licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) No employee shall be allowed to operate any cremation equipment until he or she has demonstrated to the licensee or authorized representative that he or she understands procedures required to ensure that health and safety conditions are maintained at the crematory and that cremated remains are not commingled other than for acceptable residue, as defined. The crematory licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau, to produce a written employee instruction plan, or record of employee training for inspection, shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

SEC. 250. Section 8574 of the Health and Safety Code is amended to read:

8574. For a violation of any provision of Section 8573, the bureau may temporarily suspend or permanently revoke the license of any cemetery licensee and may order the reservation or escrowing of assets of the cemetery authority to the extent deemed necessary to satisfy the cost of construction of the structure or building.

SEC. 251. Section 8585 of the Health and Safety Code is amended to read:

8585. Whenever ownership of any cemetery authority is proposed to be transferred, the cemetery authority shall notify the Cemetery and Funeral Bureau in the Department of Consumer Affairs. A change in ownership, for purposes of this section, shall be deemed to occur whenever more than 50 percent of the equitable ownership of a cemetery authority is transferred in a single transaction or in a related series of transactions to one or more persons, associations, or corporations. The notice shall specify the address of the principal offices of the cemetery

authority, and whether it will be changed or unchanged, and shall specify the name and address of each new owner and the stockholders thereof.

Notice of such a change of ownership shall be published in a newspaper of general circulation in the county in which the cemetery is located. The notice shall specify the address of the principal offices of the cemetery authority, whether changed or unchanged, and shall specify the name and address of each new owner and each stockholder owning more than 5 percent of the stock of each new owner.

If there is a change of ownership pursuant to this section, the existing certificate of authority shall lapse and a new certificate of authority shall be obtained from the Cemetery and Funeral Bureau. No person shall purchase a cemetery, including purchase at a sale for delinquent taxes, or purchase more than 50 percent of the equitable ownership of a cemetery authority without having obtained a certificate of authority from the Cemetery and Funeral Bureau prior to the purchase of the cemetery or such an ownership interest in the cemetery authority.

Every cemetery authority shall post and continuously maintain at each public entrance to the cemetery a sign specifying the current name and address of the cemetery authority, a statement that the name and address of each director and officer of the cemetery authority may be obtained by contacting the Cemetery and Funeral Bureau of the State of California, and the address of the Cemetery and Funeral Bureau. Such signs shall be at least 16 inches high and 24 inches wide and shall be prominently mounted upright and vertical.

The Cemetery and Funeral Bureau shall suspend the certificate of authority of any cemetery authority which is in violation of the sign or public notice requirements of this section. Such certificate may be reinstated only upon compliance with such requirements.

SEC. 252. Section 8731 of the Health and Safety Code is amended to read:

8731. (a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 9650 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That

requirement may be imposed by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

(c) (1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 3 (commencing with Section 9650) of Chapter 19 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.

(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee's term of office.

SEC. 253. Section 8734 of the Health and Safety Code is amended to read:

8734. (a) Except as provided in subdivisions (b), (c), and (d), the board of trustees or corporate trustee of an endowment care fund or one or more special care funds shall file a fidelity bond executed by an admitted surety insurer with the Cemetery and Funeral Bureau in the amount of fifty thousand dollars ($50,000), guaranteeing payment to each such fund of any monetary loss incurred by the fund occasioned by acts of fraud or dishonesty by the trustees or trustee. The board of trustees or corporate trustee of both an endowment care fund and one or more special care funds need file only one such bond.

(b) Any cemetery authority which has a fidelity bond on all officers and employees issued by an admitted surety insurer and which by its terms would cover any acts of fraud or dishonesty by the trustees or corporate trustee of its endowment and special care funds need not file a separate bond with the Cemetery and Funeral Bureau as provided in subdivision (a), but shall submit to the Cemetery and Funeral Bureau satisfactory evidence of such a fidelity bond. Such fidelity bond, except as provided in subdivision (c), shall provide at least fifty thousand dollars ($50,000) specifically designated to guarantee payment of any monetary loss incurred by the endowment care or special care funds of the cemetery authority occasioned by any acts of fraud or dishonesty by the board of trustees or corporate trustee thereof.

(c) Upon application, the Cemetery and Funeral Bureau may reduce the amount of the bond required pursuant to this section if moneys in the endowment care fund and special care funds administered by the

applicant board of trustees or corporate trustee are substantially less than fifty thousand dollars ($50,000). In such cases, the Cemetery and Funeral Bureau may permit filing of a bond pursuant to subdivision (a) or (b) which, while the bond is on file, is not less than the aggregate amount of all moneys in the endowment care fund and special care funds administered by the applicant. If the Cemetery and Funeral Bureau permits exceptions pursuant to this subdivision, it shall adopt procedures to assure that affected bonds do not fall below such amount.

(d) The trustees or corporate trustee of an endowment care fund or special care fund shall take no action respecting trust funds unless there is on file with the bureau a bond as required by this section. The Cemetery and Funeral Bureau may suspend the certificate of authority of any cemetery authority having endowment or special care funds with respect to which there is no bond on file with the bureau as required by this section, or whenever such a bond falls below the amount required by this section.

(e) Any state or national bank authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) of the Financial Code shall be exempt from the requirements of this section.

SEC. 254. Section 8740 of the Health and Safety Code is amended to read:

8740. A cemetery which otherwise complies with Section 8738 may be designated an endowment care cemetery even though it contains a small section which may be sold without endowment care, if the section is separately set off from the remainder of the cemetery and if signs are kept prominently placed around the section designating the same as a ''nonendowment care section'' in legible black lettering at least four inches high. There shall be printed at the head of all contracts, agreements, statements, receipts and certificates of ownership or deeds referring to plots in the section the phrase ''nonendowment care'' in lettering of a size and style to be approved by the Cemetery and Funeral Bureau.

No new ''nonendowment care'' sections shall be established, nor an existing one enlarged in an endowment care cemetery.

SEC. 255. Section 8743 of the Health and Safety Code is amended to read:

8743. Each nonendowment care cemetery or the Cemetery and Funeral Bureau shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building and readily accessible to the public, a legible sign with lettering of a size and style to be approved by the Cemetery and Funeral Bureau that shall contain the following information in the order and manner set forth below:

(a) A heading containing the words ''nonendowment care.''

(b) This is a nonendowment care interment property.

SEC. 256. Section 8744 of the Health and Safety Code is amended to read:

8744. There shall be printed at the head of all contracts, agreements, statements, receipts, literature and other publications of nonendowment care cemeteries the following form:

''This institution is operated as a 'nonendowment care' interment property.''

The phrase ''nonendowment care'' shall be of a size and style to be approved by the Cemetery and Funeral Bureau.

SEC. 257. Section 8747.5 of the Health and Safety Code is amended to read:

8747.5. Each cemetery shall at all times maintain and keep within the State of California all books, accounts, records, cash and evidences of investments of its general and special care funds. They shall be readily available for inspection and examination by the Cemetery and Funeral Bureau in accordance with the provisions of the Business and Professions Code.

SEC. 258. Section 8748 of the Health and Safety Code is amended to read:

8748. Where an endowment care mausoleum or mausoleum-columbarium is operated within an endowment care cemetery and the cemetery corporations or cemetery authorities owning or operating each merge and consolidate into one cemetery authority or corporation, the endowment care funds established by each may be consolidated and merged into one endowment care fund. Such merger shall be accomplished by the execution of a declaration of trust by the successor cemetery authority or corporation, which declaration shall provide:

(a) That the assets of each endowment care fund shall be merged and consolidated into one endowment care fund which shall be held and administered by the directors of the successor cemetery authority or the trustees appointed by them for the care, maintenance, and embellishment of both cemeteries in accordance with the provisions of this code.

(b) That the income from such endowment care funds shall be used for the general care, maintenance, and embellishment for the cemetery as a whole, or, if the income from such consolidated fund is to be divided between such mausoleum or mausoleum-columbarium and cemetery, the proportion or manner in which it is to be divided.

(c) That it accepts and will administer all special care funds for the purpose for which they were established and in accordance with the provisions of this code.

The declaration of trust shall be approved by all of the trustees of each endowment care fund and by the directors of the cemetery authority or corporation appointing such trustees, which approval shall be endorsed upon such declaration of trust. The declaration of trust shall not be effective unless and until approved by the Cemetery and Funeral Bureau.

An executed copy of such declaration of trust so approved shall be filed with the Cemetery and Funeral Bureau and in the office of the cemetery authority or corporation owning or operating such cemetery, where it shall be available for inspection by any owner of property therein.

Upon approval of the declaration of trust by the Cemetery and Funeral Bureau, the assets and liabilities of such endowment care funds shall be deemed merged and consolidated into one endowment care fund, and the trustees of, or appointed by, the cemetery authority or corporation handling such funds shall be immediately vested with the title to all of the assets and subject to all of the liabilities thereof. The trustees of the endowment care funds which have been thus merged or consolidated shall be relieved of any obligations or duties arising subsequent to such merger or consolidation.

SEC. 259. Section 9600.5 of the Health and Safety Code is amended to read:

9600.5. The Cemetery and Funeral Bureau may, in addition to the construction methods and standards allowed in this chapter, adopt regulations for the construction of private mausoleums or private columbariums, which at a minimum, include the following:

(a) Standards for design and construction for seismic load protection.

(b) Methods of construction, including solid granite construction.

(c) Methods of sealing to prevent leakage from crypts.

(d) Ventilation of crypts.

(e) Types of incombustible materials which may be used in construction.

SEC. 260. Section 9600.6 of the Health and Safety Code is amended to read:

9600.6. Private mausoleums or columbariums may be constructed in conformance with the methods and standards set forth in this chapter or in conformance with the construction methods and standards as adopted by the Cemetery and Funeral Bureau.

SEC. 261. Section 215.5 of this bill incorporates amendments to Section 9745 of the Business and Professions Code proposed by both this bill and AB 2279. 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 9745 of the Business and Professions Code, and (3) this bill is enacted after AB 2279, in which case Section 215 of this bill shall not become operative.

SEC. 262. 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 569

An act to amend Sections 12168.7, 14756, 25105, 26205, 26205.1, 26205.5, 27322.2, 34090.5, and 60203 of the Government Code, to amend Section 102235 of the Health and Safety Code, and to amend Section 10851 of the Welfare and Institutions Code, relating to records.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 21, 2000.]

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

SECTION 1. Section 12168.7 of the Government Code is amended to read:

12168.7. (a) The California Legislature hereby recognizes the need to adopt uniform statewide standards for the purpose of storing and recording permanent and nonpermanent documents in electronic media.

(b) In order to ensure that uniform statewide standards remain current and relevant, the Secretary of State, in consultation with the Department of General Services, shall approve and adopt appropriate standards established by the American National Standards Institute or the Association for Information and Image Management.

(c) The standards specified in subdivision (b) shall include a requirement that a trusted system be utilized. For this purpose and for purposes of Sections 25105, 26205, 26205.1, 26205.5, 27322.2, 34090.5, and 60203, Section 102235 of the Health and Safety Code, and Section 10851 of the Welfare and Institutions Code, ''trusted system'' means a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored.

(d) In order to develop statewide standards as expeditiously as possible, and until the time that statewide standards are adopted pursuant to subdivision (b), state officials shall ensure that microfilming,

electronic data imaging, and photographic reproduction are done in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records.

SEC. 2. Section 14756 of the Government Code is amended to read:

14756. The public records of any state agency may be microfilmed, electronically data imaged, or otherwise photographically reproduced and certified upon the written authorization of the head of the agency. The microfilming, electronic data imaging, or photographic reproduction shall be made in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management, and as adopted by the Department of General Services in consultation with the Secretary of State, for recording of permanent records or nonpermanent records.

The certification of each reproduction or set of reproductions shall be in accordance with the standards, or have the approval, of the Attorney General. The certification shall contain a statement of the identity, description, and disposition or location of the records reproduced, the date, reason, and authorization for the reproduction, and other information that the Attorney General requires.

The certified reproductions shall be deemed to be original public records for all purposes, including introduction in courts of law and state agencies.

SEC. 3. Section 25105 of the Government Code is amended to read:

25105. The board of supervisors may authorize the use of photographs, microphotographs, electronic data processing records, optical disks, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or photocopies of all records, books, and minutes of the board.

(a) Each photograph, microphotograph, or photocopy shall be made in a manner and on paper which will comply with Section 12168.7 for recording of permanent records or nonpermanent records, whichever applies. Every reproduction shall be deemed and considered an original; a transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original. Each roll of microfilm shall be deemed and constitute a book and shall be designated and numbered, and provision shall be made for preserving, examining, and using it. A duplicate of each roll of microfilm shall be made and kept in a safe and separate place.

(b) Electronic data processing records, records recorded on optical disk, and records recorded on any other medium shall comply with

Section 12168.7. A duplicate copy of any record reproduced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records, whichever applies, shall be deemed an original.

(c) In the event the authorization provided herein is granted, the personal signatures required by Section 25103, if technically feasible, may be reproduced by the authorized process, and the reproduced signatures shall be deemed to satisfy the requirement of Section 25103. If the documents are signed using a digital signature, reproduced documents shall be considered authenticated if the reproduced documents are created by a trusted system, as defined in pertinent digital signature regulations.

SEC. 4. Section 26205 of the Government Code is amended to read:

26205. At the request of the county officer concerned, the board of supervisors of any county may authorize the destruction of any record, paper, or document that is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, electronically recorded video images on magnetic surfaces, records in the electronic data processing system, records recorded on optical disk, or other reproductions on film or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data processing system, on optical disk, or on any other medium that does not permit additions, deletions, or changes to the original document images shall also be separately maintained.

SEC. 5. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose conditions, in addition to those specified in this subdivision, that the board of supervisors determines are appropriate.

(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronically recorded video production, a record contained in the electronic data processing system, a record recorded on optical disk, a record recorded by any other medium that does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed.

(3) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) Paragraphs (2) and (3) of subdivision (a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records that are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. ''Articles'' includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

(d) Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data processing system, on optical disk, or on any other medium that does not permit additions, deletions, or changes to the original document shall also be separately maintained.

SEC. 6. Section 26205.5 of the Government Code is amended to read:

26205.5. At the request of the county recorder, the board of supervisors of any county may authorize the destruction of any or all of the filed papers or record books created by handwriting, typing on printed forms, by typewriting, or by photographic methods, in the recorder's official custody, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced under the direction and control of the county recorder on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 7. Section 27322.2 of the Government Code is amended to read:

27322.2. A system of microphotography, optical disk, or reproduction by any other technique that does not permit additions, deletions, or changes to the original document may be used by the recorder as a photographic reproduction process to record some or all instruments, papers, and notices that are required or permitted by law to be recorded or filed. All reproductions shall be made in compliance with Section 12168.7. A true copy of the document shall be kept in a safe and separate place that will reasonably assure its preservation for the duration of the retention prescribed by law against loss or destruction. A true copy of the document shall be arranged in a suitable place in the office of the recorder to facilitate public inspection.

SEC. 8. Section 34090.5 of the Government Code is amended to read:

34090.5. Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may, without the approval of the legislative body or the written consent of the city attorney, cause to be destroyed any or all of the records, documents, instruments, books, and papers, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 9. Section 60203 of the Government Code is amended to read:

60203. The legislative body of a district may authorize the destruction of any record, paper, or document that is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 10. Section 102235 of the Health and Safety Code is amended to read:

102235. Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this part to be destroyed if all of the following requirements have been met:

(a) One year has elapsed since the date of registration of the records.

(b) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other technique that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(c) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(d) A permanent copy is maintained in a manner that permits it to be used for all purposes served by the original record.

(e) A permanent copy has been stored at a separate physical location in a place and manner that will reasonably assure its preservation indefinitely against loss or destruction.

SEC. 11. Section 10851 of the Welfare and Institutions Code is amended to read:

10851. (a) Each county shall establish and maintain a case record for each public social services case and shall retain the record for a period of three years. The three-year retention period begins on the date on which public social services were last provided. The records shall be retained beyond the three-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three-year period when the retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record. In addition, the board may also authorize the destruction of those documents contained in the case file that are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period, no portion of the case record of the person shall be destroyed until the action is terminated.

(c) Each county shall maintain fiscal, statistical, and other records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. These fiscal and reporting records shall be retained for a minimum period of three years from the date of submission of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

(e) Notwithstanding subdivision (a), or any other statutory requirement concerning the retention of public social services records,

a child protective services agency may, but need not, retain a child abuse report that has been determined to be an unfounded report, as defined in Section 11165.12 of the Penal Code.

(f) Notwithstanding any other provision of law, a county may retain a case record established pursuant to subdivision (a), and retained pursuant to subdivisions (a) and (c), using either electronic or other alternative storage technologies. Permissible alternative storage technologies shall include, but not be limited to, photography, microphotography, electronically recorded video images on magnetic surfaces, electronic data processing systems, optical disk storage, or any other electronic medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and meets Section 12168.7 for recording of permanent records or nonpermanent records. A duplicate copy of any record reproduced shall be deemed an original.

CHAPTER 570

An act relating to Admission Day, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. The sum of eight hundred ninety-five thousand dollars ($895,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation, in augmentation of Item 3790-001-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000), for costs associated with the celebration of Admission Day.

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

In order to make an appropriation that amends and supplements the Budget Act of 2000 (Ch. 52, Stats. 2000) effective as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 571

An act to amend Sections 68074 and 68075 of, and to repeal Sections 68074.1 and 68075.1 of, the Education Code, relating to public postsecondary education.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 68074 of the Education Code is amended to read:

68074. (a) (1) An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees.

(2) A student seeking a graduate degree who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(b) If that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States, or (2) is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 2. Section 68074.1 of the Education Code is repealed.

SEC. 3. Section 68075 of the Education Code is amended to read:

68075. (a) An undergraduate student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees.

(b) A student seeking a graduate degree who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, shall be entitled to resident classification only for the purpose of determining the amount

of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

SEC. 4. Section 68075.1 of the Education Code is repealed.

SEC. 5. The Legislature hereby requests the Regents of the University of California to establish the same residency classifications for students enrolled at the University of California as those enacted by this act.

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 572

An act relating to educational opportunities for veterans.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. It is the intent of the Legislature to explore alternatives to enhance the educational opportunities for all veterans, with an emphasis on helping post Vietnam-era veterans.

SEC. 2. (a) The Student Aid Commission, in consultation with the Department of Veterans Affairs, shall conduct a study concerning all of the following:

(1) Identification of the veteran population in the state.

(2) The financial needs of the veteran population in the state.

(3) The financial resources available to veterans for education.

(4) Identification of any gaps that exist in programs providing financial assistance for veterans seeking further education.

(5) Proposed solutions to remedy problems noted under this section by the commission.

(b) The Student Aid Commission shall report its findings and recommendations made under subdivision (a) to the Governor and the appropriate legislative policy and fiscal committees no later than December 31, 2001.

(c) This section shall be implemented only during those fiscal years for which funding is provided for the purposes of this section in the annual Budget Act or in another measure.

CHAPTER 573

An act to amend Section 2282.5 of, and to repeal and amend Section 2282 of, the Food and Agricultural Code, relating to agricultural pest control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 2282 of the Food and Agricultural Code, as added by Section 3 of Chapter 890 of the Statutes of 1999, is repealed.

SEC. 2. Section 2282 of the Food and Agricultural Code, as amended by Section 4 of Chapter 890 of the Statutes of 1999, is amended to read:

2282. (a) Except as provided in Section 2282.5, and to the extent funds are appropriated in the annual Budget Act, the Secretary of Food and Agriculture or the Director of Pesticide Regulation may allocate annually to each county an amount determined by the secretary or the director not to exceed one-third of the amount expended by the county during the previous fiscal year for the programs of joint responsibility under the jurisdiction of the secretary or director, as applicable. The allocations shall be made from funds appropriated to the secretary or the director for purposes of carrying out activities of joint responsibility with the commissioners at the local levels.

(b) The annual report to the Legislature required by Section 2281 shall include findings for each of the following joint programs, including the amounts allocated to, and expended by, the counties in the previous fiscal year and the proposed amount to be allocated by the secretary for each program for the ensuing budget year:

(1) Pest detection.
(2) Pest eradication.
(3) Pest management control.
(4) Pest exclusion.
(5) Seed inspection.
(6) Nursery inspection.
(7) Fruit and vegetable quality control.
(8) Egg quality control.

(9) Apiary inspection.

(10) Crop statistics.

The report shall also specify the programs that have been augmented with state funds each year since 1980 because of new legislative mandates, or because of pest infestations or outbreaks occurring since that date, and the annual amounts of those augmentations.

SEC. 3. Section 2282.5 of the Food and Agricultural Code is amended to read:

2282.5. (a) The development of work plans for allocation of the funding appropriated in the Budget Act to the department for local assistance for agricultural plant and animal pest and disease prevention shall be the responsibility of the department. The department shall establish criteria for the development of the work plans and for allocating the appropriated funds.

(b) Of the amount appropriated in the Budget Act to the department for local assistance for agricultural plant and animal pest and disease prevention, five million five hundred thousand dollars ($5,500,000) shall be utilized solely for high-risk pest exclusion activities. The work plans for the exclusion of high-risk pests shall be developed by the department with the county agricultural commissioners and in consultation with affected industry representatives. In order to determine the effectiveness of high-risk pest exclusion programs in each county, the criteria established by the department for the work plan shall include, but need not be limited to, the following:

(1) The number of high-risk plant shipments entering each county.

(2) The number of high-risk entry points in each county.

(3) The number of state action quarantine pests intercepted or detected annually in each county.

(4) The work hours expended by each county in conducting exclusion of high-risk pests.

(5) The rate of interceptions and rejections per inspection activity.

(c) To remain eligible for funding under this section, a county shall maintain its support of ongoing operational costs of the county agricultural commissioner programs listed in subdivision (b) of Section 2282, at 1997–98 fiscal year levels.

(d) Funds allocated for high-risk pest exclusion activities pursuant to subdivision (b) may not be expended for any purpose other than the exclusion or detection of high-risk pests consistent with the work plans prescribed in subdivision (a) or scientific evaluation. Funds allocated by each county on or after September 28, 1998, shall not be allocated to other programs listed in subdivision (b) of Section 2282 until the county work plan is approved by the department consistent with the funding appropriated in the Budget Act to the department for local assistance for

agricultural plant and animal pest and disease prevention for this purpose.

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

In order to make changes to certain provisions affecting agriculture prior to their repeal, thereby protecting public health and safety, it is necessary that this act take effect immediately.

CHAPTER 574

An act to add Chapter 6.5 (commencing with Section 66450) to Part 40 of the Education Code, relating to intellectual property.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Chapter 6.5 (commencing with Section 66450) is added to Part 40 of the Education Code, to read:

CHAPTER 6.5. UNAUTHORIZED RECORDING, DISSEMINATION, AND PUBLICATION OF ACADEMIC PRESENTATIONS FOR COMMERCIAL PURPOSES

66450. (a) Except as authorized by policies developed in accordance with subdivision (a) of Section 66452, no business, agency, or person, including, but not necessarily limited to, an enrolled student, shall prepare, cause to be prepared, give, sell, transfer, or otherwise distribute or publish, for any commercial purpose, any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction by an instructor of record. This prohibition applies to a recording made in any medium, including, but not necessarily limited to, handwritten or typewritten class notes.

(b) Nothing in this section shall be construed to interfere with the rights of disabled students under law.

(c) As used in this section:

(1) ''Academic presentation'' means any lecture, speech, performance, exhibit, or other form of academic or aesthetic presentation, made by an instructor of record as part of an authorized course of instruction that is not fixed in a tangible medium of expression.

(2) ''Commercial purpose'' means any purpose that has financial or economic gain as an objective.

(3) ''Instructor of record'' means any teacher or staff member employed to teach courses and authorize credit for the successful completion of courses.

66451. (a) Any court of competent jurisdiction may grant relief that it finds necessary to enforce this chapter, including the issuance of an injunction. Any person injured by a violation of this chapter, in addition to actual damages, may recover court costs, attorney's fees, and a civil penalty from any person who is not a student enrolled in the institution at which the instructor of record makes his or her academic presentation and who seeks to obtain financial or economic gain through the unauthorized dissemination of the academic presentation. The amount of the civil penalty shall not exceed one thousand dollars ($1,000) for the first offense, five thousand dollars ($5,000) for the second offense, and for any subsequent offense, a penalty of not less than ten thousand dollars ($10,000) or more than twenty-five thousand dollars ($25,000).

(b) Actions for any relief pursuant to this chapter may be prosecuted in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city, or city and county, in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation, or association or by any person acting for the interests of itself, its members, or the general public.

(c) It does not constitute a violation of this chapter for a business, agency, or person solely to provide access or connection to or from a facility, system, or network over which that business, agency, or person has no control, including related capabilities that are incidental to providing access or connection. This subdivision does not apply to a business or agency that is owned by, or to a business, agency, or person that is controlled by, or a conspirator with, a business, agency, or person actively involved in the creation, editing, or knowing distribution of a contemporaneous recording that violates this chapter.

66452. (a) The Regents of the University of California and the governing boards of private postsecondary institutions are requested to, the Trustees of the California State University shall, and the governing board of each community college district may, in consultation with faculty, in accordance with applicable procedures, develop policies to prohibit the unauthorized recording, dissemination, and publication of

academic presentations for commercial purposes. Nothing in this chapter is intended to change existing law as it pertains to the ownership of academic presentations.

(b) The Regents of the University of California and the governing boards of private postsecondary institutions are requested to, the Trustees of the California State University shall, and the governing board of each community college district may, adopt or provide for the adoption of specific regulations governing a violation of this chapter by students, along with applicable penalties for a violation of the regulations. The regents are requested to, the trustees shall, and the governing board of each community college district may, adopt procedures to inform all students of those regulations, with applicable penalties, and any revisions thereof.

CHAPTER 575

An act to add Section 890.3 to the Military and Veterans Code, relating to veterans.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 890.3 is added to the Military and Veterans Code, to read:

890.3. (a) (1) Notwithstanding any other provision of law, on or after January 1, 2001, a claimant is not ineligible for a disabled veterans' benefit for lack of certification of disability of the veteran with respect to whom the benefit is sought, if there is a currently pending application to the United States Department of Veterans Affairs (USDVA) for certification of disability for that veteran and the subsequently received certification qualifies the veteran for the benefit. An entity of state government, or any political subdivision thereof, to which a claim for a disabled veterans' benefit is made, shall require the claimant to provide written verification that an application had been pending with the USDVA at the time the claim for the disabled veterans' benefit is submitted.

(2) For purposes of this subdivision, ''disabled veterans benefit'' means an exemption, privilege, service, or other legal benefit that is provided pursuant to law by the state, or a political subdivision thereof, exclusively to a disabled veteran, or his or her surviving spouse, parent, or child.

(b) (1) For purposes of applying the disabled veterans' property tax exemption set forth in Section 205.5 of the Revenue and Taxation Code, any amount of tax, including any interest or penalty thereon, levied upon that portion of the assessed value of real property that would have been exempt if the veteran's pending application for certification of disability had been finalized, shall be canceled or refunded if both of the following conditions are met:

(A) The certification is received and is forwarded to the county assessor.

(B) A return is made as required by Section 277 of the Revenue and Taxation Code.

(2) Any refund issued pursuant to this subdivision is subject to the limitations periods for refunds set forth in Section 5096 of the Revenue and Taxation Code.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 576

An act to amend Sections 60604, 60605, 60640, 60641, 60643, 60643.1, 60644, 60645, and 60648 of, and to add Sections 60642.5 and 60649 to, the Education Code, relating to achievement tests.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting

(STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the State Board of Education, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be

developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the test was administered and no later than July 30 of the calendar year in which the test was administered.

SEC. 2. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors.

(C) The State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission or the contractor. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments

pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a).

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

SEC. 3. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997–98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, before June 15, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than June 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be ''General Fund revenues appropriated for school districts,'' as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the ''total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,'' as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

(4) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

SEC. 4. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered.

SEC. 5. Section 60642.5 is added to the Education Code, to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the standards-based achievement test, the State Board of Education shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing, and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

(6) The contractor's experience in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

SEC. 6. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999–2000 school year, or by October 15, for any school year thereafter.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with ''non-limited-English-proficient status'' shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as

required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for ''economically disadvantaged'' status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 and the publisher of the standards-based achievement test provided for in Section 60642.5 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or 60642.5 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contract shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contract shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of any

component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(11) The contract shall specify the means by which the delivery date for materials to each school district shall be verified by the publisher and the school district.

(12) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contract specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

SEC. 7. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher designated by the State

Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.

(3) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, reading lists that can be distributed to pupils based on a pupil's age and the ranges of scores on the English language arts portion of the achievement test designated pursuant to Section 60642.

(4) The requirements of this subdivision shall only become operative upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.

(b) The State Board of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the next higher level for challenging practice.

(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.

(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.

(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists

that are developed and published by the State Department of Education and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).

(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

SEC. 8. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Per-pupil cost estimates of administering the proposed assessment.

(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(g) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 9. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642, the standards-based achievement test provided for in Section 60642.5, and items identified in subdivision (d) for compliance with Section 60614.

(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education pursuant to subdivision (c).

SEC. 10. Section 60648 of the Education Code is amended to read:

60648. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, levels of pupil performance on achievement tests administered pursuant to this article in reading, English language arts, and mathematics at each grade level. The performance levels shall identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade. These levels of performance shall only be adopted after the standards-based achievement tests have been aligned, pursuant to paragraph (2) of subdivision (a) of Section 60643, to the content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

SEC. 11. Section 60649 is added to the Education Code, to read:

60649. On or before March 1, 2001, the Superintendent of Public Instruction and the State Board of Education shall report to the Legislature and the Governor on the status of implementation of this chapter. The report shall include, but not be limited to, the following:

(a) Description of the actions taken to ensure full coverage of academic content standards in assessments developed pursuant to this chapter.

(b) Identification of the types of test items designed to measure applied academic skills, as defined in subdivision (b) of Section 60603.

(c) The means by which the Superintendent of Public Instruction and the State Board of Education determine assessments are valid, reliable, and provide consistent year-to-year comparisons of student progress, consistent with nationally recognized and accepted test construction and implementation methodologies, as applicable.

(d) Recommendations to improve the state's assessment system, identifying related costs or savings, and increases or decreases in testing time.

CHAPTER 577

An act to add Chapter 8.5 (commencing with Section 1350) to Division 6 of the Military and Veterans Code, and to add and repeal Article 1 (commencing with Section 18701) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to veterans.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Chapter 8.5 (commencing with Section 1350) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 8.5. NATIONAL WORLD WAR II VETERANS MEMORIAL TRUST FUND

1350. There is hereby established the National World War II Veterans Memorial Trust Fund to receive those moneys transferred in accordance with Section 18702 of the Revenue and Taxation Code. Upon appropriation by the Legislature, the moneys in the trust fund shall be allocated to the American Battle Monuments Commission for the construction and maintenance of the World War II Memorial described in Section 1 of Chapter 864 of the Statutes of 1999.

SEC. 2. Article 1 (commencing with Section 18701) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 1. National World War II Veterans Memorial Funding

18701. (a) Any individual may designate on the tax return that a contribution in excess of tax liability, if any, be made to the National World War II Veterans Memorial Trust Fund, established pursuant to Section 1350 of the Military and Veterans Code.

(b) A contribution shall be in a full dollar amount and may be made individually by each signatory on a joint return.

(c) A designation made under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under the article, be transferred to the General Fund.

(d) If an individual designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designated accounts on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the ''National World War II Veterans Memorial'' to allow for the designation permitted under subdivision (a). The

Franchise Tax Board shall state in the accompanying tax information booklet that the contributions will be for use on the World War II Memorial in Washington, D.C.

(f) Notwithstanding any other provision, a voluntary contribution designation for the National World War II Veterans Memorial Trust Fund shall not be added on the tax return until another voluntary contribution designation is removed.

(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for the amount of any contribution made under subdivision (a).

18702. (a) The Franchise Tax Board shall annually determine the total amount designated pursuant to subdivision (a) of Section 18701 and notify the Controller of that amount.

(b) The Controller shall transfer the amount determined under subdivision (a), less the direct, actual costs of the Franchise Tax Board for the collection and administration of funds under this article, to the National World War II Veterans Memorial Trust Fund, established pursuant to Section 1350 of the Military and Veterans Code, for use on the World War II Memorial in Washington, D.C. Upon appropriation by the Legislature, the Controller shall transfer the amount of reimbursement for direct actual costs incurred by the Franchise Tax Board and the Office of the Controller in the administration of this fund.

18703. This article creates an additional source of funding for a specified purpose. The funds generated by this article shall not be used in place of funds from other sources that are available for appropriation to the National World War II Veterans Memorial Trust Fund.

18704. (a) This article shall remain in effect only until January 1 of the third taxable year following the first appearance of the National World War II Veterans Memorial Trust Fund on the tax return and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) If, in any calendar year after the first taxable year the National World War II Veterans Memorial Trust Fund appears on the tax return, the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c) for subsequent taxable years, as may be applicable, then this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contribution.

(c) For each calendar year, beginning with the second calendar year the National World War II Veterans Memorial Trust Fund appears on the

tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

CHAPTER 578

An act to add and repeal Sections 41329 and 41329.1 of the Education Code, relating to the West Contra Costa Unified School District, and making an appropriation therefor.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. It is the intent of the Legislature that the governing board, staff, and community of the West Contra Costa Unified School District contribute to and participate in a process to improve the district's performance in the five major operational areas of pupil achievement, fiscal management, facilities management, personnel management, and governance, including community relations.

SEC. 2. Section 41329 is added to the Education Code, to read:

41329. (a) The sum of one million six hundred thousand dollars ($1,600,000) is hereby appropriated from the General Fund according to the following schedule:

(1) Eight hundred thousand dollars ($800,000) to the Superintendent of Public Instruction for the 2000–01 fiscal year, and an equal amount, which shall be appropriated annually thereafter, for allocation to the West Contra Costa Unified School District to reimburse the district for its inability to participate, between 1993 and 1998, inclusive, in the state

school facilities funding program due to the exclusion contained in Section 17017.1. The Legislature finds that the issue of repayment is a matter that is separate and apart from the issue of access to adequate school facilities for pupils of the school district and that West Contra Costa Unified School District should not be prevented from sharing in those funds.

(2) Eight hundred thousand dollars ($800,000) to be paid by the Controller directly to the Kern County Office of Education for the exclusive use by the County Office Fiscal Crisis and Management Assistance Team for the purposes of conducting the assessments and completing the improvement plans specified in Section 41329.1.

(b) Funds allocated to the school district by the Superintendent of Public Instruction pursuant to paragraph (1) of subdivision (a) shall not exceed the total school district modernization project eligibility for the period of time between 1993 and 1998, inclusive, for which the school district did not realize state funding assistance and to which it would otherwise have been entitled but for the statutory exclusion, plus interest at the rate of 1 percent less than the rate earned on the current Pooled Money Investment Account.

(c) Because the school district was forced to rely fully on operating and other local discretionary funds to resolve many of its school facilities needs during the period of time in question, funds received pursuant to paragraph (1) of subdivision (a) may be used by the school district for any discretionary school district purpose.

(d) As a condition of receiving funds pursuant to this section, the West Contra Costa Unified School District shall agree to cooperate with the County Office Fiscal Crisis and Management Assistance Team in the fulfillment of the team's responsibilities pursuant to Section 41329.1.

(e) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 41329.1 is added to the Education Code, to read:

41329.1. (a) The County Office Fiscal Crisis and Management Assistance Team shall conduct comprehensive assessments and shall complete, by July 1, 2001, the following improvement plans for the West Contra Costa Unified School District:

(1) An instructional improvement plan that includes special education and programs for English language learners and is consistent with the financial improvement plan required by paragraph (2). The plan shall specify pupil outcomes that reflect significant improvement in pupil achievement, particularly in the areas of reading, writing, and mathematics. Among the areas addressed by the plan shall be the alignment between the written, taught, and tested curriculum consistent

with the state's adopted instructional standards. Included in the plan shall be a clear link between professional development for all instructional staff consistent with pupil achievement objectives.

(2) A financial improvement plan that is consistent with the instructional improvement plan required by paragraph (1) and that includes the current and future projected solvency and fiscal integrity of the school district. The financial improvement plan shall also include, but not be limited to, specific strategies for developing a loan repayment plan to fully extinguish the balance on state loans provided to the district and for improving the following:

(A) Management information systems.

(B) Accounting and internal control procedures.

(C) Attendance accounting procedures.

(3) A facilities improvement plan that shall be consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the following:

(A) Protection and safety for pupils, employees, and district property.

(B) Ongoing maintenance of district property.

(C) Management control and procedures for managing all construction and modernization projects.

(4) A personnel management improvement plan that is consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the following:

(A) The recruitment, retention, screening, assessment, and hiring procedures for all district staff.

(B) The training of members of the governing board of the school district in the subjects about which members of the governing board must have knowledge in order to discharge their duties as board members effectively.

(C) The assessment of the administrative practices of the school district and staff development to ensure that staff have the knowledge and skills required to manage effectively the educational programs, finances, safety, and facilities maintenance of the school district.

(D) The calculation and maintenance of appropriate and efficient full-time equivalent staffing rations for all school district staff.

(E) The governance structure of the school district in relation to board policy development, operational effectiveness, and responsiveness to the community.

(5) A community relations improvement plan that is consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the communication among the governing board, personnel of the school district, pupils, and parents.

(b) Beginning on December 1, 2001, and each six months thereafter until July 1, 2003, County Office Fiscal Crisis and Management Assistance Team shall file a written status report with the appropriate fiscal and policy committees of the Legislature, including any special committees created for the purpose of reviewing the reports, and with the governing board of the school district, the Superintendent of Public Instruction, the Director of Finance, and the Secretary for Education. The reports shall include the progress that the West Contra Costa Unified School District is making in meeting the recommendations of the improvement plans developed pursuant to subdivision (a).

(c) County Office Fiscal Crisis and Management Assistance Team shall provide to the Controller an accounting of expenditures made by it pursuant to the requirements of this act.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 4. Due to the unique circumstances concerning the impact that the West Contra Costa Unified School District emergency had upon its subsequent inability to participate in state funding for school facilities, it is necessary that special funding provision be enacted, and 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.

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 579

An act to add Chapter 4 (commencing with Section 55000) to Division 20 of the Food and Agricultural Code, relating to farm products.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Chapter 4 (commencing with Section 55000) is added to Division 20 of the Food and Agricultural Code, to read:

CHAPTER 4. CALIFORNIA RICE CERTIFICATION ACT OF 2000

Article 1. Declarations and Legislative Intent

55000. The production and milling of rice constitutes an important industry of this state that provides substantial and necessary revenues for the state and employment for its citizens. The California rice industry has the potential to be one of the leading segments of the state's agricultural industry. To realize this potential, there is a need to make domestic and foreign consumers aware of the nutritional value of rice, the high quality of the rice produced and milled in the state, the many varieties of rice produced and milled in the state, the intricacies of rice culture, and the versatility of rice as a part of a well balanced diet.

55001. The program established pursuant to this chapter is essential to ensuring the consistently high quality of the rice produced, milled, distributed, or otherwise handled in the state by informing consumers, maintaining consumer confidence, and enhancing and protecting the reputation of California's rice industry throughout the nation and around the world.

55002. This chapter is intended to allow the rice industry to work cooperatively to maintain consumer confidence and the acceptance of rice produced and milled in the state.

55003. There is a growing need to maintain the identity of various types of rice to satisfy increasing consumer demand for specialty rices. This demand requires providing the industry with the ability to establish the terms and conditions for the production and handling of rice in order to minimize the potential for the commingling of various types of rice, and in order to prevent commingling where reconditioning is infeasible or impossible.

Article 2. Definitions

55006. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

55007. ''Books and records'' means books, records, contracts, documents, memoranda, papers, correspondence, or other data, whether in written, magnetic, or electronic form, that pertain to matters relating to this chapter.

55008. ''Certification'' means certification pursuant to Article 7 (commencing with Section 55070).

55009. ''Characteristics of commercial impact'' means characteristics that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible.

55010. ''Commission'' means the California Rice Commission created pursuant to Chapter 9.5 (commencing with Section 71000) of Part 2 of Division 22.

55010.5. ''Committee'' refers to the committee established under Section 55020.

55011. ''Handler'' means any person engaged in this state in the business of marketing rice, including persons engaged in the drying, milling, or storing of rice.

55012. ''Person'' includes any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in California.

55013. ''Producer'' includes any person who produces, or causes to be produced, rice.

55014. ''Rice'' means all rough or ''paddy'' rice or milled rice (Oryza species) produced in or shipped into California, including mochi rice (sweet rice) and rice produced for seed. It does not include wild rice (Zinzania aquatica; Zinzania palustris).

55015. ''Secretary'' means the Secretary of Food and Agriculture.

Article 3. Administration

55020. The secretary shall appoint a committee, from nominations received from the commission, to administer Section 55040 and Article 5 (commencing with Section 55050), except as otherwise specified. The committee consists of four producers, four handlers, and one representative each of the California Crop Improvement Association, the California Warehouse Association, and the California Cooperative Rice Research Foundation. The secretary shall also appoint one member from the University of California who shall not be affiliated with the California Crop Improvement Association. If the secretary finds any of those nominated to be unacceptable, he or she shall notify the commission and request that another person be nominated. The commission shall appoint one ex officio member who shall be involved in the marketing, breeding, or distribution of seed, and may appoint any

other ex officio members deemed reasonably necessary to implement this chapter.

55020.5. (a) The committee shall meet periodically for the purposes specified in Article 4 (commencing with Section 55040).

(b) A majority of the membership of the committee shall constitute a quorum of the committee. The vote of a majority of the members present at which there is a quorum shall constitute an act of the committee. The committee may continue to transact business at a meeting at which a quorum is initially present, notwithstanding the withdrawal of members, provided any action is approved by the requisite majority of the required quorum.

(c) As a committee of the commission, the committee established pursuant to Section 55022 shall conduct itself according to the bylaws and rules of the commission.

(d) Sections 71051, 71053, 71063, and 71066 shall apply to the committee.

55021. All funds received from the assessments levied under this chapter shall be deposited in banks that the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in the state, in favor of the commission, in an amount of not less than twenty-five thousand dollars ($25,000).

55022. (a) Upon receipt of a recommendation from the committee for the promulgation of regulations, the secretary shall within 30 working days do one of the following:

(1) Initiate the rulemaking process with the regulation as recommended by the committee.

(2) Decline to initiate the rulemaking process and provide the committee with a written statement of reasons for the decision.

(3) Request that the committee provide additional information regarding the recommended regulations.

(b) All regulations adopted pursuant to this chapter shall be adopted in compliance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code and may be subsequently repealed or amended as provided for in that chapter.

Article 4. Duties and Powers

55040. The powers and duties of the committee under this chapter shall include, but not be limited to, all of the following:

(a) Identifying rices that have characteristics of commercial impact.

(b) Recommending to the secretary proposed regulations establishing terms and conditions for planting, producing, harvesting, transporting, drying, storing, or otherwise handling rice identified pursuant to subdivision (a), including, but not limited to, seed application requirements, field buffer zones, handling requirements, and identity preservation requirements. All rice identified pursuant to subdivision (a) shall be subject to an identity preservation program.

(c) Reviewing the efficacy of terms, conditions, and identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified pursuant to subdivision (a) using the most current industry standards and generally accepted scientific principles.

(d) Recommending to the secretary on all matters pertaining to this chapter, including, but not limited to, enforcement of this chapter and setting the assessment rates.

(e) The committee shall review each rice identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice. No purveyor of a rice identified as having characteristics of commercial impact may file more than one petition on a particular rice in any two-year period.

(f) Neither the recommendations of the committee nor any regulation adopted pursuant to this chapter shall be construed as establishing any production, processing, or market tolerance.

55045. (a) The commission may receive and investigate complaints regarding alleged violations of this chapter and the regulations adopted under it and may refer cases to the department for action pursuant to Section 55107.

(b) The commission shall provide notice to the person alleged to have violated the provisions of this chapter informing him or her of the commission's decision to take further action pursuant to this article. The person may seek a review of the commission's decision by the secretary and thereafter may seek judicial relief.

(c) Notwithstanding subdivision (b), the commission may immediately seek injunctive relief, as specified in Section 55046. Any injunction obtained by the commission shall remain in full force and effect pending any review by the secretary.

55046. (a) The commission may investigate and commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and for the obtaining of injunctive relief or specific performance regarding this chapter and the regulations adopted under it. The commission may seek a writ of attachment or injunctive relief, including, but not limited to, a temporary restraining order, temporary injunction, or a permanent injunction, in order to prevent any violation or threatened violation of this chapter. A court shall issue to the

commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated, or has threatened to violate, this chapter or any regulation promulgated under it. No bond shall be required to be posted by the commission as a condition for the issuance of the requested writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 4 (commencing with Section 485.101) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure shall not be required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 of the Code of Civil Procedure shall not be required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding rice until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal place of business of the commission. The commission may be sued only in the county of its principal office.

55047. The committee shall recommend to the secretary that regulations be adopted by the secretary that accomplish all of the following purposes:

(a) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact.

(b) Prevent the introduction of disease, weeds, or other pests.

(c) Ensure that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the commission of the location of planting sites and of the dates and procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified as having characteristics of commercial impact.

(d) Ensure that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing, transporting, drying, storing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests.

(e) Ensure enforcement of terms and conditions imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified as having characteristics of commercial impact.

(f) Encourage research and development of new types of rice.

Article 5. Commercial Impact Rice

55050. Except as provided for in Section 55052, no person may plant, produce, harvest, transport, dry, store, or otherwise handle rice identified as having characteristics of commercial impact, except in compliance with the provisions of this chapter and the regulations adopted under it. Regulations shall be adopted by the secretary, in accordance with Section 55022, to accomplish all of the following purposes:

(a) Maintain the integrity and prevent contamination of rice which has not been identified as having characteristics of commercial impact.

(b) Prevent the introduction of disease, weeds, or other pests.

(c) Ensure that persons selling, offering for sale, or otherwise distributing seed for the production of rice pursuant to subdivision (a) of Section 55040 or bringing rice identified pursuant to subdivision (a) of Section 55040 into the state for processing notify the commission of the location of planting sites and of the dates and procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling of the rice.

(d) Ensure that persons receiving rice having been identified pursuant to subdivision (a) of Section 55040 produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing, transporting, drying, storing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests.

(e) Enforce the restrictions and conditions imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified pursuant to subdivision (a) of Section 55040.

(f) Encourage research and development of new types of rice.

55051. Except as specified in Section 55052, no rice may be sold, offered for sale, or otherwise distributed, planted, harvested, transported, dried, stored, or otherwise handled unless it has been reviewed by the committee for the purposes of making the findings set forth in Section 55040, and if necessary, the establishment of regulations pursuant to Section 55047.

55052. (a) Except as set forth in this section, this chapter shall not apply to 50 acres or less of rice of any type planted for research purposes. No one type may be planted on more than 50 acres in the state and be

considered research within the meaning of this section. Any person conducting research on 50 acres or less shall notify the committee of the location of the acreage involved, and the proposed procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling the rice. The committee shall review and approve, modify, or reject the proposed procedures to ensure that the research will not result in commercial impacts to other rice. The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(b) In addition to the information required pursuant to subdivision (a), the committee may require any person proposing to conduct research using rice brought into the state from another state or country to provide the committee with proposed procedures to ensure that the introduced rice is free of disease, weeds, or other pests. The committee shall review and approve, modify, or reject the proposed procedures. The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(c) The notice required pursuant to this section shall not require specific information regarding the attributes of the rice that is the subject of the research.

(d) The notice required by this section shall be provided in the time and manner specified by the committee.

(e) This chapter shall not apply to research conducted by the University of California except for rice produced directly from the research that enters the channels of trade.

Article 6. Assessments

55060. (a) Any person engaged in the business of selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, shall annually pay to the commission an assessment in an amount not to exceed five dollars ($5) per hundredweight (cwt.).

(b) The first in-state handler of paddy or brown rice identified as having characteristics of commercial impact, or of seed for the production of rice identified as having characteristics of commercial impact, brought into the state from outside California, shall report the receipt of the rice or seed and pay an assessment to the commission in an amount not to exceed ten cents ($0.10) per hundredweight (cwt). The report and payment shall be made in the time and manner specified by the commission.

55061. The assessment shall be paid in the time and manner specified by the commission. No assessment shall be paid by any person for any rice seed for which the assessment has been previously paid. Assessments not paid when due shall be subject to a penalty of 10 percent of the assessment and interest at the rate of 1 percent per month.

55062. The commission shall use all funds received pursuant to this chapter for the purposes of this chapter.

55063. The commission shall publish an annual report of its activities including an accounting of the use of assessments collected pursuant to this chapter. The report, in aggregate form, shall be made available to any person upon request.

Article 7. Certification of Rice

55070. The commission may establish a program allowing for the certification of any verifiable attribute of rice. The commission may operate the program or contract with qualified entities to implement all or any aspect of the program. No organization shall be considered qualified for the purposes of this article unless it can provide accurate, verifiable certification of identified attributes of seed, rough or paddy rice, or milled rice, as determined by the commission. This article does not authorize the certification of any rice as organic. Certification pursuant to this article shall not be construed as establishing any production, processing, or market tolerance.

55071. (a) The commission shall require any organization seeking to certify rice pursuant to this article to file the procedures and standards of an internationally recognized identity preservation program or a certification plan, including, but not limited to, the following:

(1) Minimum information to be required from seed producers, producers and handlers regarding production, growing, conditioning, or processing practices, and methods for verifying the information received.

(2) Qualifications of, and training requirements for, all inspectors.

(3) Procedures for inspection and testing methods, including a complete description of the sampling methodologies.

(4) Criteria for certification and attributes to be certified.

(5) Processes for decisionmaking relative to certification procedures, criteria, and methods.

(b) The certification plan shall be kept by the commission and made available for public inspection upon request.

55072. Organizations certifying rice shall keep accurate books, accounts, and records of all activities relating to certification. The records shall be preserved for a period of three years and shall be

submitted for inspection at any reasonable time upon written demand of the commission.

55074. At the end of each rice producing season, as established by the commission, each organization certifying rice for the commission shall prepare a list of all persons whose rice has been certified or is pending certification. This list shall be filed with the commission and shall be available for public inspection.

55075. (a) Notwithstanding any other provision of law, any producer or handler of rice sold as a certified rice and any organization certifying rice for the commission shall immediately make available for inspection by, and shall within 72 hours of a request provide to, the commission a copy of any record required to be kept under this chapter. Records acquired pursuant to this section and any information marked trade secret or confidential acquired by the commission in carrying out its duties under this chapter shall not be public records as that term is defined in Section 6252 of the Government Code and shall not be subject to Chapter 3.5 (commencing with Section 6250) of the Government Code.

(b) The commission shall not be required to obtain records not in its possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the commission shall delete any financial information about any operation or transaction, information regarding the identity of suppliers or customers, the quantity or price of supplies purchased or products sold and any information marked trade secret or confidential.

(c) Except for those records subject to public inspection pursuant to Sections 55071 and 55074, this section shall be the exclusive means of public access to records required to be kept or obtained by the commission pursuant to this chapter.

55076. Upon receipt of a petition from any person providing adequate evidence of good cause to do so, the commission may declare all rice produced within a specified area to be certified as to any attribute. If the commission makes this declaration, all rice produced within the area shall be deemed certified, and may be labeled as provided in Section 55082 if the rice is handled to preserve its identity.

Article 8. Sale of Certified Rice

55080. Every person engaged in this state in the production or handling of rice to be identified as certified pursuant to this chapter, shall register with the commission or its designate prior to the first sale of rice so identified, and shall thereafter annually renew the registration unless the person is no longer engaged in the activities requiring registration.

55081. Registration shall be on a form developed by the commission, or developed by its designate and approved by the commission, and shall be valid for one rice producing season.

55082. Rice certified pursuant to this chapter shall be labeled as follows or with substantially similar language:

"THIS LOT OF RICE CERTIFIED (accurate identification of specified attribute) IN ACCORDANCE WITH THE CALIFORNIA RICE CERTIFICATION ACT OF 2000."

The label shall also include the name of any organization that provided the certification as the commission's designate. The commission may revise the label language with the concurrence of the secretary.

55083. This chapter shall apply to all rice sold as certified pursuant to this chapter within the state, wherever produced or handled, and to all rice produced or handled in the state, wherever sold as certified, pursuant to this chapter; except that in lieu of registration under this chapter, the commission may recognize a certification program operating outside the state that certifies rice sold as certified, provided that program meets minimum standards substantially similar to those contained in this chapter. The commission may establish a procedure whereby certification organizations operating outside the state may apply for and receive recognition.

Article 9. Violations

55100. (a) It is unlawful for any person to sell, offer for sale, advertise, or label rice in violation of this chapter.

(b) Notwithstanding subdivision (a), a person engaged in business as a retailer of rice who in good faith sells, offers for sale, labels, or advertises any rice in reliance on the representations of a producer or handler that the rice may be sold as certified, shall not be found to violate this chapter, except under any of the following circumstances:

(1) The retailer knew or should have known that the rice could not be sold as certified.

(2) The retailer was engaged in producing or handling the rice.

(3) The retailer prescribed or specified the manner in which the rice was produced or handled.

55101. (a) It is unlawful for any person to certify rice in violation of this chapter.

(b) It is unlawful for any person to certify rice unless designated by the commission.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed pursuant to Article 7 (commencing with Section 55070).

55102. (a) It is unlawful for any person to produce or handle rice sold as certified unless duly registered pursuant to Section 55080.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, during registration pursuant to Section 55080.

55103. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records as required by this chapter.

55104. It is unlawful for any person to fail or refuse to pay any assessments levied pursuant to this chapter.

55105. It is unlawful for any person to sell, offer for sale, or otherwise distribute, plant, grow, harvest, handle, or store rice, except in compliance with this chapter and the regulations adopted under it.

55106. (a) The secretary may levy a civil penalty against any person who violates this chapter, or any regulations adopted pursuant to this chapter, in an amount not more than five thousand dollars ($5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Upon a finding that a violation was unintentional, the secretary may levy a civil penalty of not more than two thousand five hundred dollars ($2,500) for each violation.

(c) For a first offense, and upon a finding that the violation is minor and unintentional, in lieu of a civil penalty as prescribed in subdivision (a) or (b), the secretary may issue a notice of violation.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the civil penalty is levied within 30 days of the date of the final order of the secretary pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the secretary pursuant to this section may be recovered in a civil action brought in the name of the state.

55107. (a) Any violation of any provision of this chapter or the regulations promulgated under it shall constitute grounds for injunctive relief. An action for injunctive relief may be brought in a court of

competent jurisdiction by the secretary. The commission shall also be authorized to bring an action in its own name for injunctive relief on the grounds provided for in this chapter.

(b) Prior to bringing an action for injunctive relief pursuant to this section, the commission shall review all available information, recommend specific enforcement action to the secretary, and allow the secretary the opportunity to respond, as provided for in Section 55060. Notwithstanding the secretary's response, nothing in this section shall be construed as preventing the commission from bringing the action.

55108. Penalties received pursuant to this article shall be handled as specified in Section 55062.

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 580

An act to amend Sections 15268, 15270, and 47605 of the Education Code, relating to education.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 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) Paragraph (1) of subdivision (j) of Section 47605 of the Education Code allows a charter school petitioner to submit a petition for the establishment of a charter school directly to the State Board of Education if the governing board of a school district denies the petition.

(2) Under current law, the governing board of a school district or county board of education is prohibited from denying a petition for the establishment of a charter school unless it sets forth specific findings, including findings that the petition does not contain reasonably comprehensive descriptions of certain criteria. Use of the term ''reasonably comprehensive'' is somewhat subjective and should be defined, consistent with the intent of existing charter school law, and

within the context of a rubric that will be used for the evaluation of charter school petitions under review by the State Board of Education.

(3) In order to ensure implementation of the appeal process established in law, clear criteria must be established for the review and approval of charter petitions.

(b) It is the intent of the Legislature that the State Board of Education shall review a petition for the establishment of a charter school pursuant to subdivision (b) of Section 47605 of the Education Code, which prescribes the reasons why a charter can be denied, provided it makes written factual findings, specific to the particular petition.

SEC. 2. Section 15268, as added by Chapter 44 of the Statutes of 2000 is amended to read:

15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

SEC. 3. Section 15270, as added by Chapter 44 of the Statutes of 2000, is amended to read:

15270. (a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district,

would not exceed sixty dollars ($60) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

(b) Notwithstanding Sections 15102 and 15268, any community college district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a community college district, would not exceed twenty-five dollars ($25) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

(c) In computing the outstanding bonded indebtedness of any unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively.

(d) For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll. In the event of the unification of two or more school districts subsequent to the 1987–88 fiscal year, the assessed value of all unitary and operating nonunitary property of the unified district shall be deemed to be the total of the assessed value of the taxable property of each of the unifying districts as that assessed value would be determined under Section 15268.

(e) For the purposes of this article, ‘‘general obligation bonds,’’ as that term is used in Section 18 of Article XVI of the California Constitution, means bonds of a school district or community college

district the repayment of which is provided for by this chapter and Chapter 1 (commencing with Section 15100) of Part 10.

SEC. 4. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) In the case of a petition for the establishment of a charter school through the conversion of an existing public school, that would not be eligible for a loan pursuant to subdivision (b) of Section 41365, the petition may be circulated by any one or more persons seeking to establish the converted charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be

encouraged. A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an ''educated person'' in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(B) The measurable pupil outcomes identified for use by the charter school. ''Pupil outcomes,'' for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random

drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to either the county board of education or directly to the State Board of Education. The county board of education or the State Board of Education, as the case may be, shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the State Board of Education.

(2) In assuming its role as a chartering agency, the State Board of Education shall develop criteria to be used for the review and approval of charter school petitions presented to the State Board of Education. The criteria shall address all elements required for charter approval, as identified in subdivision (b) of Section 47605 and shall define ''reasonably comprehensive'' as used in paragraph (5) of subdivision (b) of Section 47605 in a way that is consistent with the intent of the Charter Schools Act of 1992. Upon satisfactory completion of the criteria, the State Board of Education shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the State Board of Education pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the State Board of Education fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district, to deny a petition shall, thereafter, be subject to judicial review.

(5) The State Board of Education shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the State Board of Education.

(k) (1) The State Board of Education may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the State Board of Education to any local education agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local education agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the State Board of Education.

(3) A charter school that has been granted its charter by the State Board of Education and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the State Board of Education for renewal of its charter.

(*l*) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be

required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

CHAPTER 581

An act to amend Section 42238.2 of the Education Code, relating to school districts.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 42238.2 of the Education Code is amended to read:

42238.2. (a) (1) Notwithstanding Section 42238.5 or any other provision of law, a school district that meets any of the following conditions shall be entitled to an adjustment to its units of average daily attendance pursuant to this section:

(A) The school district experiences a decline in the number of units of average daily attendance in excess of 8 percent of its total average daily attendance as a result of the closure of a facility operated by a branch of the United States Armed Forces in the school district's boundaries.

(B) The school district experiences a decline in the number of units of average daily attendance that is less than 8 percent but at least 5 percent of its total average daily attendance as a result of the closure of a facility operated by a branch of the United States Armed Forces in that school district's boundaries, upon a finding by both the Superintendent of Public Instruction and the Director of Finance that both of the following conditions exist:

(i) The school district demonstrates that at the end of a three-year period the school district will experience a 10-percent reduction in the amount of funding that the school district would otherwise have received from state apportionments, funding received pursuant to the California State Lottery Act of 1984 (Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code), and funding received pursuant to Title VIII of Public Law 103-382, as a result of the loss of pupils related to the closure of a facility operated by a branch of the United States Armed Forces.

(ii) The fiscal crisis and management assistance team established pursuant to Section 42127.8 has reviewed the school district's finances and has found that the school district has taken significant steps to reduce expenditure.

(C) The school district experiences a decline in the number of units of average daily attendance in excess of 5 percent of its total average daily attendance and the Director of Finance determines that the school district is likely, within eight years of that decline, to maintain a number of units of average daily attendance that is equivalent to the number of units of average daily attendance maintained by the school district prior to the decline. Notwithstanding subdivision (b), loan repayments shall commence no later than the fourth year after the base year or at a later time, as determined by the Director of Finance.

(2) For purposes of this section, the year preceding a decline shall be the base year.

(b) In the second year after the base year, the district average daily attendance pursuant to Section 42238.5 may, if the district chooses, be increased by 75 percent of the difference between the base year units of average daily attendance and the units of average daily attendance in the first year of decline. In the third year after the base year, the district average daily attendance pursuant to Section 42238.5 may, if the district chooses, be increased by 50 percent of the difference between the base year units of average daily attendance and the units of average daily attendance in the first year of decline. The amount of money represented by these increases shall be considered a loan to the school district. Loan repayments shall commence no later than the fourth year after the base year.

(c) (1) The Superintendent of Public Instruction, in consultation with a school district subject to this section, shall determine a schedule for repayment of the total amount loaned pursuant to this section which may not exceed 10 years. Payments shall include interest charged at a rate based on the most current investment rate of the Pooled Money Investment Account in the General Fund as of the date of the disbursement of funds to the school district.

(2) Upon written notification by the Superintendent of Public Instruction that the school district has not made one or more of the payments required by the schedule established pursuant to paragraph (1), the Controller shall withhold from Section A of the State School Fund the defaulted payment which shall not exceed the amount of any apportionment entitlement of the district to moneys in Section A of the State School Fund. In that regard, the Controller shall withhold the amount of any payment made under this subdivision, including reimbursement of the Controller's administrative costs as determined under a schedule approved by the California Debt Advisory

Commission, from subsequent apportionments to the school district from Section A of the State School Fund.

(3) Any apportionments made by the Controller pursuant to paragraph (2) shall be deemed to be an allocation to the school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, and for purposes of Chapter 2 (commencing with Section 41200) of Part 24.

(d) In no event shall the adjustment provided by this section cause the apportionment to a school district to exceed the amount that would otherwise be calculated for apportionment to the district pursuant to Sections 42238 and 42238.1.

(e) This section does not apply to a school district that experiences a decline in enrollment as a result of a school district reorganization pursuant to Chapter 3 (commencing with Section 35500) of Part 21 or any other law.

CHAPTER 582

An act to amend Section 8483.3 of the Education Code, relating to after school programs.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 8483.3 of the Education Code is amended to read:

8483.3. (a) The State Department of Education shall select applicants to participate in the program established pursuant to this article from among applicants that apply on forms and in a manner prescribed by the department. To the extent possible, the selection of applicants by the State Department of Education shall result in an equitable distribution of grant awards pursuant to Section 8483.7 to applicants in northern, southern, and central California, and in urban, suburban, and rural areas of California.

(b) The State Department of Education shall consider the following in selecting schools to participate in the program established pursuant to this article, with primary emphasis given to items (1) through (5):

(1) Strength of the educational component.

(2) Quality of the educational enrichment component.

(3) Strength of staff training and development component.

(4) Scope and strength of collaboration, including demonstrated support of the schoolsite principal and staff.

(5) Capacity to facilitate better integration with the regular schoolday and other extended learning opportunities. These opportunities may include arts, recreation, computer use, and other activities to broaden the pupil's learning experience.

(6) Inclusion of a nutritional snack.

(7) Employment of CalWORKs recipients.

(8) Level and type of local matching funds.

(9) Capacity to respond to program evaluation requirements.

(10) Demonstrated fiscal accountability.

(c) The State Department of Education shall develop reporting requirements and allocation procedures, including procedures to reimburse startup costs for programs established pursuant to this article.

CHAPTER 583

An act to amend Sections 69612, 69613, 69613.1, 69613.2, 69613.4, 69613.5, 69614, 69615, 69615.4, and 69615.6 of, to add Section 69613.8 to, and to repeal Sections 69612.5, 69613.15, 69615.2, and 69616 of, the Education Code, relating to student financial aid.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 69612 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69612. (a) The Legislature finds and declares all of the following:

(1) There is a growing shortage of high-quality classroom teachers, and there is a need for qualified teachers throughout California.

(2) One of the most important elements in a pupil's success at learning is the quality of the teacher.

(3) The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession.

(4) Many school districts have difficulty recruiting and retaining high-quality teachers for low-performing schools, for pupils with special needs, for schools serving rural areas or large populations of pupils from low-income and linguistic minority families, and for schools with a high percentage of teachers holding emergency permits.

(5) The rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education.

(6) The availability of financial aid and loan repayment assistance are important considerations for many students, especially economically disadvantaged students, in making their educational decisions.

(b) It is, therefore, the intent of the Legislature that all of the following occur:

(1) The Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics.

(2) That the enactment of this article accomplish all of the following:

(A) Providing outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(B) Providing persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(C) Identifying subject matter areas or schools in which there are shortages of fully credentialed teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(D) Identifying schools serving rural areas, schools serving large populations of students from low-income families, or both, and schools with a high percentage of teachers holding emergency permits, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

(E) Identifying low-performing schools and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools. For the purpose of this article, ''low-performing school'' means a school in the bottom half of the Academic Performance Index rankings established pursuant to subdivision (a) of Section 52056 at the time that a teacher is hired.

(3) Commencing with the 2000–01 school year, all persons eligible to enter into agreements for loan assumption pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed, and who agree to obtain a credential and teach in a

designated subject matter shortage area or in a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) Serves a large population of pupils from low-income families.

(B) Has a high percentage of teachers holding emergency permits. For the purposes of this article, a school with a ''high percentage of teachers holding emergency permits'' is a school in which 20 percent or more of the teachers hold emergency permits, teach pursuant to waivers of credential requirements, or are interns.

(C) Is a low-performing school.

(4) Funding necessary for the administration of this article shall be included within the annual budget of the commission in an amount necessary to meet the student loan obligations incurred by the commission.

SEC. 2. Section 69612.5 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is repealed.

SEC. 3. Section 69613 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69613. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the conditions specified in subdivision (b).

(2) As used in this article, ''eligible institution'' means a postsecondary institution that is determined by the Student Aid Commission to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at an eligible institution, has agreed to participate in a teacher trainee program or teacher internship program, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled, or has been admitted to a program in which he or she will be enrolled on at least a half-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach full time for at least four consecutive academic years after obtaining a teaching credential in a public elementary or secondary school in this state, in a subject area that is designated as a current or projected shortage area by the Superintendent of Public Instruction, or at a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) It serves a large population of pupils from low-income families, as designated by the Superintendent of Public Instruction.

(B) It has 20 percent or more teachers holding emergency permits. For the purposes of this paragraph, ''teachers holding emergency permits'' includes persons who teach pursuant to waivers of credential requirements or who are interns.

(C) It is a low-performing school.

(c) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this section to participate in the loan assumption program set forth in this article.

(d) The agreements entered into each year pursuant to subdivision (b) at each eligible institution or participating school district or county office of education shall be with applicants who meet the criteria specified in paragraph (3) of subdivision (b) of Section 69612 or agree to teach in any of the subject areas listed pursuant to that section. An agreement shall remain valid even if the subject area under which an applicant becomes eligible to enter into an agreement ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) For the purposes of calculating eligible years of teaching for the redemption of an award, the designation by the Superintendent of Public Instruction of a newly-opened school pursuant to Section 52056 shall apply retroactively from the time of opening the school.

(f) A person participating in the program pursuant to this section shall not enter into more than one agreement.

SEC. 4. Section 69613.1 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69613.1. (a) The Superintendent of Public Instruction shall furnish the commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary. Commencing January 1, 2001, the list of shortage areas furnished pursuant to this subdivision shall include the state special schools as a category separate from special education.

(b) A list of schools that serve a large population of pupils from low-income families, as designated for purposes of the Perkins Loan Program, or according to standards the superintendent deems appropriate.

(c) Commencing January 31, 2001, and every January 1 thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the superintendent.

(d) Commencing January 31, 2001, and every January 1 thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the superintendent.

(e) Commencing January 31, 2001, and every January 1 thereafter, a list of low-performing schools.

SEC. 5. Section 69613.15 of the Education Code is repealed.

SEC. 6. Section 69613.2 of the Education Code is amended to read:

69613.2. The commission shall commence loan assumption payments, as specified in Section 69613.4, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a teaching credential requiring a baccalaureate degree, other than an emergency teaching permit, authorizing service for kindergarten or any of grades 1 to 12, inclusive.

(b) The applicant has provided full-time classroom instruction in a public elementary or secondary school for the equivalent of one school year.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

SEC. 7. Section 69613.4 of the Education Code is amended to read:

69613.4. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one school year of classroom instruction pursuant to Section 69613.2, the commission shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs.

(2) After a program participant has completed two consecutive school years of instruction, the commission shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(3) After a program participant has completed three consecutive school years of teaching service, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(4) After a program participant has completed four consecutive school years of teaching service, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

(b) For purposes of this section, ''school year'' means at least 175 school days or its equivalent.

SEC. 8. Section 69613.5 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69613.5. Notwithstanding paragraph (3) of subdivision (b) of Section 69612 and Section 69614, for the purposes of the recruitment of teachers from outside California, the commission may make agreements available to out-of-state teachers who fulfill the terms of Section 69613.4 and are otherwise eligible to enter into agreements. A teacher who enters into an agreement pursuant to this section shall hold a valid teaching credential, in the subject area of the California teaching position, from the state in which he or she resides.

SEC. 9. Section 69613.8 is added to the Education Code, to read:

69613.8. In addition to the amounts set forth in subdivision (a) of Section 69613.4, for each of the four years of classroom instruction referenced in subdivision (a) of Section 69613.4, the following loan assumption benefits shall be granted:

(a) One thousand dollars ($1,000) of additional liability per year shall be assumed for a person who holds a credential appropriate for teaching, and who teaches, mathematics, science, or special education.

(b) One thousand dollars ($1,000) of additional liability per year shall be assumed for a person who teaches in a school in the lowest 20 percentile of Academic Performance Index rankings. Eligibility for the benefit set forth in this subdivision shall be limited to a person who holds a credential appropriate for teaching, and who teaches, mathematics, science, or special education.

(c) Not more than a total of five million dollars ($5,000,000) shall be expended in any academic year for the purposes of this section.

SEC. 10. Section 69614 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69614. (a) The commission shall distribute program information and student applications to participate in the loan assumption program to each eligible institution and to each school district or county office of education operating a district intern program pursuant to Section 44381. Each eligible institution shall receive at least one application, and the remainder shall be distributed to eligible institutions proportionate to the number of teaching candidates from each institution who completed the coursework required for a teaching credential during the previous year. In addition, the commission shall reexamine its outreach and marketing strategies to inform both potential undergraduates and persons employed outside of academia about the availability and benefits of the loan assumption program. To this end, the commission shall enlist the advice and support of the California Center for the Teaching Profession, the University of California, the California State University, the Association of Independent California Colleges and Universities, and private employers and their associations throughout the state.

(b) Each eligible institution, school district, and county office of education shall sign an institutional agreement with the commission, certifying its intent to administer the loan assumption program according to all applicable published rules, regulations, and guidelines, and to make special efforts to notify students regarding the availability of the program, particularly economically disadvantaged students.

(c) To the extent feasible, each eligible institution shall coordinate the loan assumption program with other programs designed to recruit students to enter the teaching profession.

SEC. 11. Section 69615 of the Education Code is amended to read:

69615. (a) The commission shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of classroom instruction, and the development of projections for funding purposes.

(b) The commission shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education, the Commission on Teacher Credentialing, school districts, and county offices of education regarding proposed rules and regulations.

SEC. 12. Section 69615.2 of the Education Code is repealed.

SEC. 13. Section 69615.4 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of program participants.

(b) The number of agreements entered into with juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The number of participants who agree to teach in a subject matter shortage area.

(d) The number of participants who agree to teach in schools with a high ratio of pupils from low-income families and in low-performing schools.

(e) The number of participants who agree to teach in schools serving rural areas.

(f) The number of participants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(g) The number of participants who receive a loan assumption benefit, classified by payment year.

(h) The number of participants who have participated in the Science, Mathematics, and Technology Teacher Pipeline Program established by Chapter 1271 of the Statutes of 1993.

(i) The number of out-of-state teachers who enter into agreements.

(j) The number of participants who have participated in teacher trainee programs or teacher internship programs, classified by school district or county office of education.

SEC. 14. Section 69615.6 of the Education Code, as amended by Chapter 70 of the Statutes of 2000, is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the commission shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year the commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, all of the following shall apply:

(1) The commission shall enter into agreements for the assumption of up to 6,500 student loans for program participants eligible under this article.

(2) Notwithstanding the limitation of 6,500 warrants set forth in paragraph (1), the commission shall issue warrants in a quantity determined by the Governor and the Legislature in the annual Budget Act for the assumption of student loans.

(3) Priority for these agreements shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(4) Priority for these agreements shall be given to applicants who agree to obtain a teaching credential in mathematics or science.

(e) In any school year, the commission may enter into no more than 500 agreements with applicants who participate in a district intern program operated by a school district or a county office of education.

(f) The issuance of warrants under this article in any fiscal year shall be subject to the provision of funding therefor in the annual Budget Act.

SEC. 15. Section 69616 of the Education Code is repealed.

CHAPTER 584

An act to amend Section 42127.8 of, and to add and repeal Section 42127.85 of, the Education Code, relating to school districts.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 42127.8 of the Education Code is amended to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, telecommunications, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, and personnel administration, organization, and staffing. The Superintendent of Public Instruction may appoint one employee of the State Department of Education to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent of Public Instruction and the Secretary for Education.

(b) The unit established under subdivision (a) shall be selected and governed by a 23-member governing board consisting of one representative chosen by the California County Superintendents

Educational Services Association from each of the 11 county service regions designated by the association, 11 superintendents of school districts chosen by the Association of California School Administrators from each of the 11 county service regions, and one representative from the State Department of Education chosen by the Superintendent of Public Instruction. The governing board of the County Office Fiscal Crisis and Management Assistance Team shall select a county superintendent of schools to chair the unit.

(c) The Superintendent of Public Instruction may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, Section 33132, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, Section 42127.9, and subdivision (a) of Section 42238.2, and to review the fiscal and administrative condition of any county office of education.

(d) In addition to the functions described in subdivision (c), the unit shall do all of the following:

(1) Provide fiscal management assistance, at the request of any school district or county office of education. Each school district or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district and county office of education.

(2) Facilitate training for members of the governing board of the school district, district and county superintendents, chief financial officers within the district, and schoolsite personnel whose primary responsibility is to address fiscal issues. Training services shall emphasize efforts to improve fiscal accountability and expand the fiscal competency of local agencies. The unit shall use state professional associations, private organizations, and public agencies to provide guidance, support, and the delivery of any training services.

(3) Facilitate fiscal management training through the 10 county service regions to county office of education staff to ensure that they develop the technical skills necessary to perform their fiduciary duty. The governing board established pursuant to subdivision (b) shall determine the extent of the training that is necessary to comply with this paragraph.

(4) Produce a training calendar, to be disseminated semiannually to each county service region, that publicizes all of the fiscal training services that are being offered at the local, regional, and state levels.

(e) The governing board shall reserve not less than 25 percent, nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to

school districts or county superintendents of schools in which the board determines that a fiscal emergency exists.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents ($0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the State Department of Education, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts and county superintendents of schools.

(h) When employed as a fiscal adviser by the State Department of Education pursuant to Section 1630, employees of the unit established pursuant to subdivision (a) shall be considered employees of the department for purposes of errors and omissions liability insurance.

SEC. 2. Section 42127.85 is added to the Education Code, immediately following Section 42127.8, to read:

42127.85. (a) In addition to the functions described in subdivisions (c) and (d) of Section 42127.8, the unit established pursuant to subdivision (a) of Section 42127.8 shall conduct a review, make recommendations, and provide technical assistance, including a followup review and report, to streamline and improve the hiring process and related personnel system of a school district if the school district meets all of the following criteria:

(1) The school district has requested for at least three consecutive years a variable term waiver pursuant to subdivision (m) of Section 44225 for authorization to hire teachers with emergency permits. For each of these three years, the number of emergency permits that the school district has requested either exceeds 20 percent of the school district's estimated need for credentialed teachers, or exceeds 50 permits, whichever is more.

(2) The number of emergency permits the district has requested in its latest declaration of need for fully qualified educators either exceeds 20 percent of the school district's estimated need for credentialed teachers, or exceeds 50 permits, whichever is more.

(b) School districts shall not be required to pay for the costs incurred by the unit in conducting any activities pursuant to this section or providing any related assistance. Costs incurred by the unit shall be pursuant to rates determined by the governing board established under subdivision (b) of Section 42127.8, and it is the intent of the Legislature that the costs shall be funded through the annual Budget Act.

(c) This section shall be implemented only to the extent funding is provided for these purposes.

(d) First priority for a review pursuant to this section shall be given to school districts participating in a Teacher Recruitment Incentive Program consortium pursuant to Chapter 3.44 (commencing with Section 44751) of Part 25.

(e) Except for a followup review and report, a school district shall not receive a review of its personnel systems pursuant to this section any more frequently than once in any five-year period.

(f) (1) To the extent that the number of school districts that qualify for unit review pursuant to this section exceeds that capacity of unit funding or staffing resources, the unit shall select a representative sample of school districts to be reviewed.

(2) The sample shall be representative of the diverse geography, size, and population density (urban, suburban, or rural) of the school districts in question.

(3) Within the sample, priority shall be given to school districts with the greatest population of pupils attending schools with scores in the lowest half of the state Academic Performance Index.

(4) Review pursuant to this section shall not be conducted on more than five school districts with average daily attendance of 1,500 or less.

(g) Any school district that qualifies for review under this section may elect not to participate if any of the following conditions are met:

(1) Of the schools within the school district, the schools that scored a 5 or less on the state Academic Performance Index have fewer than 20 percent of their teachers on emergency permits.

(2) The school district has requested emergency permits for more than 50 teachers, but fewer than 15 percent of their total estimated need for credentialed teachers.

(3) The school district has an average daily attendance of 1,500 or less.

(h) The unit shall report its activities annually to the Legislature and shall report in a summarized format on January 1, 2005.

(i) 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. 3. Notwithstanding any other provision of law, the one-million-dollar ($1,000,000) reappropriation to the State Department of Education for allocation to the Fiscal Crisis and Management Assistance Team contained in subdivision (e) of Item 6110-485 of Section 2.00 of the Budget Act of 2000 shall also be available for costs incurred by the Fiscal Crisis and Management Assistance Team pursuant to Section 42127.85 of the Education Code.

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

CHAPTER 585

An act to amend Sections 33353, 33354, and 35179 of, and to repeal and amend Section 33352 of, the Education Code, and to amend Section 1 of Chapter 151 of the Statutes of 1996, relating to interscholastic athletics.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 33352 of the Education Code, as amended by Chapter 487 of the Statutes of 1993, is repealed.

SEC. 2. Section 33352 of the Education Code, as amended by Chapter 151 of the Statutes of 1996, is amended to read:

33352. (a) The State Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

(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. 3. Section 33353 of the Education Code is amended to read:

33353. (a) The California Interscholastic Federation is a voluntary organization consisting of school and school related personnel with responsibility for administering interscholastic athletic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, implement the following policies:

(1) Give the governing boards of school districts specific authority to select their athletic league representatives.

(2) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(3) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

(b) The California Interscholastic Federation shall report to the Legislature and the Governor on its evaluation and accountability activities undertaken pursuant to this section on or before January 1, 2002.

(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. 4. Section 33354 of the Education Code is amended to read:

33354. (a) The State Department of Education shall have the following authority over interscholastic athletics:

(1) The department may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) If the department states that a school district, an association, or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department may require the school district, association, or consortium, or the federation to adjust its policy so that it is in compliance. However, the department shall not have authority to determine the specific policy that a school district, association, or consortium, or the federation must adopt in order to comply with state and federal laws.

(3) If the department states that a school district, association, or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association, or consortium, or the federation does not change its policy in order to comply with these laws, the department may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts that are members of the California Interscholastic Federation or the association or consortium that the department states is in noncompliance. In a legal proceeding the court shall determine the matter de novo. The department may make recommendations for appropriate remedies in these proceedings.

(b) This section shall not be construed or interpreted to limit the discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any

policy, program, or activity that is in compliance with state and federal law.

(c) The state law with which the policies of school districts, associations, or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are required to comply, in accordance with this section, includes, but is not limited to, any regulations issued by the State Board of Education pursuant to Section 232 with regard to sex discrimination in interscholastic athletics.

(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. Section 35179 of the Education Code is amended to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

(e) Interscholastic athletics is defined as those policies, programs, and activities that are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

(f) 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. 6. Section 1 of Chapter 151 of the Statutes of 1996 is amended to read:

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

(1) The California Interscholastic Federation (CIF) is a voluntary organization that was first organized in 1914. It consists of school personnel that has had general responsibility for administering interscholastic athletic activities in high school sports and is accountable to governing boards of school districts and other local agencies.

(2) The CIF is associated with over 1,200 member schools and over 400,000 girls and boys. Through participation in athletic-centered interscholastic activities, high school pupils in California develop values, attitudes, and skills for personal growth.

(3) The mission of the CIF is to fulfill its commitment to educating California's youth for a better tomorrow and to work in partnership with the entire community to assure equity and provide services, opportunities, and leadership necessary to establish and maintain quality high school athletic programs.

(4) The CIF is governed by state and federal statutes regarding athletics and complies with State Board of Education guidelines regarding discrimination and gender equity. In addition, the CIF is governed by its own constitution and corresponding bylaws that are developed and approved by a 30-member federated council representing all facets of the education community.

(5) In 1994, the CIF completed a statewide strategic plan to examine policies and practices and in 1996, a report was presented to the Legislature.

(b) This act shall be known and may be cited as the California Interscholastic Athletic Act.

CHAPTER 586

An act to amend Section 41365 of, and to add Sections 41366.5, 41366.7, and 41367 to, the Education Code, relating to charter schools.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 41365 of the Education Code is amended to read:

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter

School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. A loan is for use by the charter school during the period from the date the charter is granted pursuant to Section 47605 to the end of the fiscal year in which the charter school first enrolls pupils. Money loaned to a chartering authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars ($250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) Commencing with the first fiscal year following the fiscal year the charter school first enrolls pupils, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(d) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the charter school shall be solely liable for repayment of the loan.

SEC. 1.5. Section 41365 of the Education Code is amended to read:

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of

the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. Money loaned to a chartering authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars ($250,000) over the lifetime of the charter school. A charter school may receive money obtained from multiple loans made directly to the charter school or to the school's chartering authority from the Charter School Revolving Loan Fund, as long as the total amount received from the fund over the lifetime of the charter school does not exceed two hundred fifty thousand dollars ($250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) The Superintendent of Public Instruction may consider all of the following when making a determination as to the approval of a charter school's loan application:

(1) Soundness of the financial business plans of the applicant charter school.

(2) Availability of the charter school of other sources of funding.

(3) Geographic distribution of loans made from the Charter School Revolving Loan Fund.

(4) The impact that receipt of funds received pursuant to this section will have on the charter school's receipt of other private and public financing.

(5) Plans for creative uses of the funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.

(6) The financial needs of the charter school.

(d) Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs.

(e) Commencing with the first fiscal year following the fiscal year the charter school receives the loan, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full

amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(f) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the charter school shall be solely liable for repayment of the loan.

SEC. 2. Section 41366.5 is added to the Education Code, to read:

41366.5. (a) Moneys in the Charter School Revolving Loan Fund shall be loaned at the interest rate earned by the money in the Pooled Money Investment Account as of the date of disbursement of the funds to the charter school.

(b) A charter school shall pay the interest on any loan from the fund in regular installments withdrawn from the annual apportionment the charter school receives.

(c) All interest payments shall be paid into the Charter School Security Fund established pursuant to Section 41367.

SEC. 3. Section 41366.7 is added to the Education Code, to read:

41366.7. The Director of Finance shall monitor the adequacy of the amount of funds in the Charter School Security Fund and report annually to the Legislature on the need, if any, to adjust the interest rate set forth in Section 41366.5 or to revise any other aspect of the default recovery plan.

SEC. 4. Section 41367 is added to the Education Code, to read:

41367. (a) The Charter School Security Fund is hereby created in the State Treasury.

(b) Moneys in the fund shall be available for deposit into the Charter School Revolving Loan Fund in case of default on any loan made from the Charter School Revolving Loan Fund.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 41365 of the Education Code proposed by both this bill and SB 1728. 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 41365 of the Education Code, and (3) this bill is enacted after SB 1728, in which case Section 1 of this bill shall not become operative.

CHAPTER 587

An act to amend Sections 67054, 67105, 74901, and 75131 of, and to add Section 74901.5 to, the Food and Agricultural Code, relating to agricultural commissions.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 67054 of the Food and Agricultural Code is amended to read:

67054. (a) Producer members and their alternates on the commission shall have a financial interest in producing, or causing to be produced, avocados for market. In order to be elected a commissioner or alternate, a producer shall, at the time of the election, have a financial interest in the production of avocados within the district in which the individual stands for election.

(b) If a producer has a financial interest in the production of avocados within more than one district, the producer may stand for election in any district in which the producer has a financial interest in the production of avocados.

(c) A producer who chooses to stand for election in a particular district shall not stand for election in any other district for a period of four years from the date of his or her most recent election to the commission. However, this subdivision does not apply in an election to fill vacancies created by the reapportionment of districts pursuant to Section 67045.

(d) Handler members or their alternates shall have a financial interest in handling avocados for markets.

(e) Except for the election of another public member, the public member or his or her alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the avocado industry.

(f) In the event that no entity meets the requirements of Section 67032.5, any person then serving on the commission shall remain eligible through the remainder of his or her current term. Thereafter, any person elected to the commission shall serve without reference to independent or cooperative status.

SEC. 2. Section 67105 of the Food and Agricultural Code is amended to read:

67105. All assessments shall be paid to the commission by the handler first handling avocados who shall be primarily and personally liable for the payment of the assessment, and failure of the handler to

collect the assessment from any producer shall not exempt the handler from that primary liability. Any handler subject to this section who fails to file a return or pay any assessment within the time required shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due, and, in addition, $1^1/_2$-percent interest per month on the unpaid balance.

SEC. 3. Section 74901 of the Food and Agricultural Code is amended to read:

74901. The commission may accept contributions of, or match, private, local, state, or federal funds and employ or make contributions of funds to other persons or local, state or federal agencies for purposes of maintaining, promoting, and enhancing the winegrape industry.

SEC. 4. Section 74901.5 is added to the Food and Agricultural Code, to read:

74901.5. The commission may present facts to, and negotiate with, local, state, federal, and foreign agencies on matters that affect the winegrape industry.

SEC. 5. Section 75131 of the Food and Agricultural Code is amended to read:

75131. (a) The assessment on eggs and egg products shall be established by the commission, with the approval of not less than five handler members, prior to the beginning of each marketing season and, except as provided in subdivision (d), shall not exceed one cent ($0.01) per dozen for shell eggs, or the equivalent thereof, as determined by the commission, for egg products.

(b) The commission may establish an assessment rate that is different for eggs than for egg products, so long as it does not exceed the maximum assessment authorized in subdivision (a).

(c) An assessment greater than the maximum specified in subdivision (a) may be charged but only if it is approved by a vote of the handlers as provided for in Section 75112.

CHAPTER 588

An act to add and repeal Section 69561.5 of the Education Code, relating to student financial aid.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 69561.5 is added to the Education Code, to read:

69561.5. (a) In collaboration with the various segments of higher education, the Student Aid Commission shall develop and establish a pilot program entitled ''Transfer: Making It Happen.'' This program shall encourage community college students to transfer to a four-year institution of higher education, and assist them in this endeavor by providing academic preparation and information on financial aid opportunities. The program shall be modeled after the ''College: Making It Happen'' program.

(b) The pilot program established by this section shall target students who attend those community colleges or high schools that participate in one of the Student Opportunity and Access Program consortia, who are primarily from low-income households, who would be the first in their families to attend college, or who are from schools or geographic regions with documented low college eligibility or college participation rates.

(c) (1) The Student Opportunity and Access Program shall provide, in close collaboration with the personnel of the California Community Colleges who are responsible for advising students about transfer opportunities, each of the following direct student services under this section:

(A) Provision of specialized academic and financial aid information related to a transfer to an institution that grants baccalaureate degrees.

(B) Provision of personalized attention, such as one-on-one counseling and group workshops that inform students of opportunities to transfer to an institution that grants baccalaureate degrees.

(C) Working closely with community college transfer centers in strengthening direct services and outreach provided to students who plan to transfer to an institution that grants baccalaureate degrees.

(2) The services listed in paragraph (1) shall be offered to, but not necessarily limited to, students who indicate an interest in transferring to an institution that grants baccalaureate degrees.

(d) (1) During the third year of the operation of the pilot program established by this section, the California Postsecondary Education Commission, in consultation with the Legislative Analysts' office, shall evaluate the program in order to determine its effectiveness. The evaluation shall include, but not necessarily be limited to, recommendations on both of the following:

(A) How the program may improve the services it provides.

(B) How the program may be expanded beyond those community colleges that participate in one of the Student Opportunity and Access Program consortia.

(2) On or before December 1, 2004, the California Postsecondary Education Commission shall submit to the Governor and the Legislature a report including all of the findings and recommendations of its evaluation.

(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. 2. Notwithstanding any other provision of law:

(a) In the 2000–01 fiscal year, the Student Aid Commission shall accomplish both of the following:

(1) Expand the Student Opportunity and Access Program by adding up to five new consortia.

(2) Allow existing Student Opportunity and Access Program consortia to expand their services as to the type of service rendered, the number of students served, and the geographic regions in which services are provided.

(b) The Student Aid Commission may delay the local matching fund requirement for any new services established by existing consortia of the Student Opportunity and Access Program and any statewide multiconsortia activities that are established pursuant to this section.

SEC. 3. It is the intent of the Legislature that, of the funds appropriated in schedule (a) of Item 7980-101-0001 of Section 2.00 of the Budget Act of 2000 for the purposes of the Student Opportunity and Access Program, up to one million five hundred thousand dollars ($1,500,000) shall be expended by the Student Aid Commission for the purposes of Section 69561.5 of the Education Code. It is also the intent of the Legislature that the remaining three million five hundred thousand dollars ($3,500,000) of the funds appropriated in that schedule be expended for purposes of Section 2 of this act.

CHAPTER 589

An act to amend Section 52456 of, and to add Article 5 (commencing with Section 491) to Chapter 3 of Part 1 of Division 1 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Article 5 (commencing with Section 491) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

Article 5. Food Biotechnology Task Force

491. The Legislature finds and declares the following:

(a) Consumers have an interest in being informed about the benefits and potential quantifiable risks to their health from products they consume. This information must be grounded in sound science, must use informative and effective communications, and shall be consistent with other production technologies.

(b) As new advances in biotechnology, including transgenic plants, are developed, it is important to understand the opportunities that new technologies offer to consumers, farmers, the livestock industry, food processors, and the environment, as well as to evaluate the potential risks.

(c) Under the existing regulatory framework for biotechnology, the United States Food and Drug Administration has the federal authority to assure that food and pharmaceutical development using biotechnology protects public health, the United States Environmental Protection Agency has the authority to review environmental issues including bioengineered pesticides, and the United States Department of Agriculture has the responsibility to regulate the introduction of genetically modified plants into the agricultural environment. Careful review of existing oversight responsibility helps in understanding the regulatory framework governing the approval of biotechnology products and will help clarify California's role in the endeavor.

(d) California is the leading agricultural state in the country, producing 350 commodities and farm gate revenues totaling nearly twenty-seven billion dollars ($27,000,000,000) annually, of which nearly seven billion dollars ($7,000,000,000) is exported. Support for agricultural research based in sound science, and the utilization of modern farming technologies is a key factor leading to California's strong farm economy and its competitive edge in the world market for agricultural products.

492. (a) The Legislature hereby creates the Food Biotechnology Task Force. The task force shall be cochaired by the Secretary of the California Health and Welfare Agency and the Secretary of the California Trade and Commerce Agency, and the Secretary of the California Department of Food and Agriculture. The task force shall consult with appropriate state agencies and the University of California.

The California Department of Food and Agriculture shall be the lead agency.

(b) An advisory committee shall be appointed by the task force to provide input on issues reviewed by the task force. The advisory committee shall consist of representatives from consumer groups, environmental organizations, farmers, ranchers, representatives from the biotechnology industry, researchers, organic farmers, food processors, retailers, and others with interests in the issues surrounding biotechnology.

(c) The California Department of Food and Agriculture shall make funds available to other agencies to accomplish the purposes of this article and shall contract, where appropriate, with the California Council on Science and Technology, the University of California, or other entities to review issues evaluated by the task force or support activities of the advisory committee.

(d) The task force may request particular agencies to lead the effort to evaluate various factors related to food biotechnology. As funding becomes available, the task force shall evaluate factors including all of the following:

(1) Definition and categorization of food biotechnology and production processes.

(2) Scientific literature on the subject, and a characterization of information resources readily available to consumers.

(3) Issues related to domestic and international marketing of biotechnology foods such as the handling, processing, manufacturing, distribution, labeling, and marketing of these products.

(4) Potential benefits and impacts to human health, the state's economy, and the environment accruing from food biotechnology.

(5) Existing federal and state evaluation and oversight procedures.

(e) The task force shall report issues studied, findings, basis for their findings, and recommendations to the Governor and the Legislature by January 1, 2003.

(f) An initial sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund for disbursement to the California Department of Food of Agriculture. It is the intent of the Legislature to make further funds available to accomplish the purposes contained in this article.

SEC. 2. Section 52456 of the Food and Agricultural Code is amended to read:

52456. In addition to the labeling requirements of this article, all seed, except seed at the time of sale by a retail merchant for nonfarm use, shall conspicuously bear upon the label adequate notice of the requirement to follow the conciliation, mediation, or arbitration procedures governing disputes between labelers and any person, as

authorized by this chapter, and the consequences of failing to follow those procedures.

CHAPTER 590

An act to amend Section 17092 of, and to add Sections 17070.51 and 17088.2 to, the Education Code, to amend Section 14615.1 of the Government Code, and to amend Section 12 of Chapter 1601 of the Statutes of 1988, relating to school facilities, and making an appropriation therefor.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Section 17070.51 is added to the Education Code, to read:

17070.51. (a) If any certified eligibility or funding application related information is found to have been falsely certified by school districts, architects or design professionals, hereinafter referred to as a material inaccuracy, the Office of Public School Construction shall notify the board.

(b) The board shall impose the following penalties if an apportionment and fund release has been made based upon information in the project application or related materials that constitutes a material inaccuracy.

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the school district shall repay to the board, for deposit into the 1998 State School Facilities Fund, an amount proportionate to the additional funding received as a result of the material inaccuracy including interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater.

(2) The board shall prohibit the school district from self-certifying certain project information for any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy or until the district's repayment of the entire amount owed under paragraph (1). Although a school district that is subject to this paragraph may not self-certify, the school district shall not be prohibited from applying for state funding under this chapter. The

board shall establish an alternative method for state or independent certification of compliance that shall be applicable in these cases. The process shall include, but shall not be limited to, procedures for payment by the school district of any increased costs associated with the alternative certification process.

(c) For school districts found to have provided material inaccuracies when a funding apportionment has occurred, but no fund release has been made, the board shall direct its staff to reduce the apportionment as necessary to reflect the actual nature of the project and to disregard the inaccurate information or material, and paragraph (2) of subdivision (b) shall apply.

(d) For those school districts found to have provided material inaccuracies when no funding apportionment or fund release has been made, the inaccurate information or materials shall not be considered, and paragraph (2) of subdivision (b) shall apply. The project may continue if the application, minus the inaccurate materials, is still complete.

SEC. 2. Section 17088.2 is added to the Education Code, to read:

17088.2. Notwithstanding any provision of law to the contrary, including, but not limited to, Section 17587, the board may transfer any funds within the State School Building Aid Fund that are in excess of the amounts needed by the board for the maintenance of portable buildings or for the purchase of new portable buildings, for that fiscal year, to either of the following:

(a) The 1998 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(b) The State School Deferred Maintenance Fund for allocation by the board for any purpose authorized pursuant to that fund. The board may utilize up to 100 percent of the funds transferred by the board to the State School Deferred Maintenance Fund pursuant to this section for funding extreme hardship critical projects.

SEC. 3. Section 17092 of the Education Code is amended to read:

17092. (a) No portable classrooms shall be made available to any school district unless the district furnishes evidence, satisfactory to the board, that the district has no available bond proceeds that could be used for the purchase of classroom facilities.

(b) Notwithstanding any other provision of law, a school district or county superintendent of schools that has received approval for a project that includes a justified number of new teaching stations pursuant to Chapter 12 (commencing with Section 17000) or Chapter 12.5 (commencing with Section 17070.15) shall be eligible for at least the same number of emergency portable classrooms as approved new teaching stations.

(c) Subdivision (a) does not apply to leases or subleases under this chapter for the purpose of providing facilities, pursuant to subdivision (c) of Section 17091, for licensed child day care programs or any recreation or enrichment activities or programs for schoolage children.

SEC. 4. Section 14615.1 of the Government Code is amended to read:

14615.1. Where the Legislature directs or authorizes the department to maintain, develop, or prescribe processes, procedures, or policies in connection with the administration of its duties under this chapter, Chapter 2 (commencing with Section 14650), or Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, the action by the department shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)). This section shall apply to actions taken by the department with respect to the State Administrative Manual and the State Contracting Manual.

SEC. 5. Section 12 of Chapter 1601 of the Statutes of 1988 is amended to read:

Sec. 12. All provisions of the federal model contractors accreditation plan (40 C.F.R. Appendix C, Subpart E, Part 763), as it became effective June 1, 1987, are hereby adopted as the contractor accreditation plan of this state, and are hereby incorporated in Chapter 9 (commencing with Section 49400) of Part 27 of the Education Code as though set forth in full therein.

CHAPTER 591

An act to add and repeal Chapter 4.9 (commencing with Section 56490) of Part 30 of, the Education Code, relating to special education.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 23, 2000.]

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

SECTION 1. Chapter 4.9 (commencing with Section 56490) is added to Part 30 of the Education Code, to read:

CHAPTER 4.9. ALTERNATIVE HEARING PROCESS PILOT PROJECT

56490. (a) Subject to an appropriation in the annual Budget Act or any other measures for these purposes, the State Department of

Education shall select and allocate funds to three special education local plan areas to implement a three-year pilot project for alternative due process hearing procedures.

(b) To be eligible for selection for participation, a special education local plan area shall submit an application to the department based on criteria developed by the department.

(c) The department shall select special education local plan areas that reflect the diversity of special education local plan areas in the state and ensure representation of urban, suburban, and small or rural special education local plan areas and northern, southern, and central regions of the state.

(d) If funds are appropriated for the purposes of this chapter, the total sum of expenditures shall not exceed seven hundred thousand dollars ($700,000), pursuant to the following schedule:

(1) Five hundred thousand dollars ($500,000) for the purposes of implementing Section 56493.

(2) One hundred thousand dollars ($100,000) for the purposes of implementing Section 56492.

(3) One hundred thousand dollars ($100,000) for the purposes of implementing Section 56494.

56491. A special education local plan area selected pursuant to Section 56490 shall be subject to Chapter 5 (commencing with Section 56500).

56492. A hearing officer employed pursuant to Section 56504.5 shall implement, in a special education local plan area selected pursuant to Section 56490, a voluntary, simplified nonattorney alternative process based on settlement and alternative dispute resolution models that would include, but not be limited to, all of the following:

(a) No rules of evidence, except for rules regarding privileged communications and hearsay.

(b) Presentation of evidence could be sharply curtailed.

(c) Parents shall represent themselves.

(d) Schoolsite staff, not central office staff, shall represent the district.

(e) The hearing should last no more than one day.

(f) Participation in the process established by this section does not waive a person's ability to exercise his or her rights to the due process procedure available pursuant to Chapter 5 (commencing with Section 56500). The decision issued pursuant to the process established by this section is not binding in any subsequent exercise of the person's right to due process proceedings pursuant to Chapter 5 (commencing with Section 56500). If a person elects to exercise his or her right to due process proceedings pursuant to Chapter 5 (commencing with Section 56500) after participating in the process established by this section, the subsequent proceeding shall be conducted by a different hearing officer

who shall not communicate, and shall not have communicated, directly or indirectly, with the hearing officer who conducted the proceeding prescribed by this section regarding the nature or facts of the parties' dispute or the legal conclusions drawn or to be drawn thereon.

56493. (a) A special education local plan area selected pursuant to Section 56490 shall establish public advocacy services using an independent contractor to provide free advocacy and legal services to parents of pupils with disabilities. Services shall include all of the following:

(1) Information about special education services, how to obtain services, including the individualized education program process, and the right to services under federal and state law.

(2) Representation in mediation and due process hearings at no charge.

(b) To be eligible for selection as an independent contractor to provide services pursuant to this chapter, the contractor shall demonstrate all of the following:

(1) Knowledge of the special education system and rights of pupils with disabilities.

(2) The ability to work effectively with pupils with disabilities, families of pupils with disabilities, school personnel, community groups, and other advocacy organizations.

(3) Skills in interviewing pupils with disabilities and their families, counseling individuals about their rights, and representation of pupils with disabilities in mediation and due process hearings.

(c) Compliance by the contractor with the terms of the contract shall be evaluated by the participating special education local plan area using objective performance measures that shall be specified in the contract.

(d) In order to be eligible under this section, the contractor shall not have represented a school district within the special education local plan area or any other education agency in any legal matter at any time prior to entering into the contract to provide advocacy services pursuant to this section.

56494. (a) On or before January 1, 2003, each special local plan area participating in the pilot project established pursuant to this chapter, shall submit a report to the Legislative Analyst, including, but not limited to, all of the following:

(1) The amount of funds used and the proportion used for small claims and legal services.

(2) The participation rate of pupils with special needs and their families in the programs offered pursuant to this chapter.

(3) The outcomes of participation in the small claims program, including how many cases were successfully dispensed with and how many cases continued through the existing due process hearing

procedure available pursuant to Chapter 5 (commencing with Section 56500) of Part 30.

(4) The outcomes of the use of free legal services.

(5) Input from participating pupils and parents.

(b) On or before March 1, 2003, the Legislative Analyst shall coordinate the reports submitted pursuant to subdivision (a), analyze the data, compile one comprehensive evaluation, and submit the evaluation to the State Department of Education, the Legislature, and the Governor.

(c) Any funds appropriated for the evaluation shall be provided to the Legislative Analyst. No funds appropriated for the evaluation shall be provided to any participating special education local plan area.

56495. This chapter shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

CHAPTER 592

An act to amend Sections 16061.7 and 16061.8 of the Probate Code, relating to trusts.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 16061.7 of the Probate Code is amended to read:

16061.7. (a) A trustee shall serve a notification by the trustee as described in this section in the following events:

(1) When a revocable trust or any portion thereof becomes irrevocable because of the death of one or more of the settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust.

(2) Whenever there is a change of trustee of an irrevocable trust. The duty to serve the notification by the trustee is the duty of the continuing or successor trustee, and any one cotrustee may serve the notification.

(b) The notification by the trustee required by subdivision (a) shall be served on each of the following:

(1) Each beneficiary of the irrevocable trust or irrevocable portion of the trust, subject to the limitations of Section 15804.

(2) Each heir of the deceased settlor, if the event that requires notification is the death of a settlor or irrevocability within one year of

the death of the settlor of the trust by the express terms of the trust because of a contingency related to the death of a settlor.

(3) If the trust is a charitable trust subject to the supervision of the Attorney General, to the Attorney General.

(c) A trustee shall, for purposes of this section, rely upon any final judicial determination of heirship, known to the trustee, but the trustee shall have discretion to make a good faith determination by any reasonable means of the heirs of a deceased settlor in the absence of a final judicial determination of heirship known to the trustee.

(d) The trustee need not provide a copy of the notification by trustee to any beneficiary or heir (1) known to the trustee but who cannot be located by the trustee after reasonable diligence or (2) unknown to the trustee.

(e) The notification by trustee shall be served by mail to the last known address, pursuant to Section 1215, or by personal delivery.

(f) The notification by trustee shall be served not later than 60 days following the occurrence of the event requiring service of the notification by trustee, or 60 days after the trustee became aware of the existence of a person entitled to receive notification by trustee, if that person was not known to the trustee on the occurrence of the event requiring service of the notification. If there is a vacancy in the office of the trustee on the date of the occurrence of the event requiring service of the notification by trustee, or if that event causes a vacancy, then the 60-day period for service of the notification by trustee commences on the date the new trustee commences to serve as trustee.

(g) The notification by trustee shall contain the following information:

(1) The identity of the settlor or settlors of the trust and the date of execution of the trust instrument.

(2) The name, mailing address and telephone number of each trustee of the trust.

(3) The address of the physical location where the principal place of administration of the trust is located, pursuant to Section 17002.

(4) Any additional information that may be expressly required by the terms of the trust instrument.

(5) A notification that the recipient is entitled, upon reasonable request to the trustee, to receive from the trustee a true and complete copy of the terms of the trust.

(h) If the notification by the trustee is served because a revocable trust or any portion of it has become irrevocable because of the death of one or more settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust, the notification by the trustee shall also include a

warning, set out in a separate paragraph in not less than 10-point boldface type, or a reasonable equivalent thereof, that states as follows:

''You may not bring an action to contest the trust more than 120 days from the date this notification by the trustee is served upon you or 60 days from the date on which a copy of the terms of the trust is mailed or personally delivered to you during that 120-day period, whichever is later.''

(i) Any waiver by a settlor of the requirement of serving the notification by trustee required by this section is against public policy and shall be void.

(j) A trustee may serve a notification by trustee in the form required by this section on any person in addition to those on whom the notification by trustee is required to be served. A trustee is not liable to any person for serving or for not serving the notice on any person in addition to those on whom the notice is required to be served. A trustee is not required to serve a notification by trustee if the event that otherwise requires service of the notification by trustee occurs before January 1, 1998.

SEC. 2. Section 16061.8 of the Probate Code is amended to read:

16061.8. No person upon whom the notification by the trustee is served pursuant to this chapter may bring an action to contest the trust more than 120 days from the date the notification by the trustee is served upon him or her, or 60 days from the day on which a copy of the terms of the trust is mailed or personally delivered to him or her during that 120-day period, whichever is later.

CHAPTER 593

An act to amend Section 120440 of the Health and Safety Code, relating to disease prevention and control.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 120440 of the Health and Safety Code is amended to read:

120440. (a) For the purposes of this chapter, the following definitions shall apply:

(1) ''Health care provider'' means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and

Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2) ''Schools, child care facilities, and family child care homes'' means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3) ''WIC service provider'' means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4) ''Health care plan'' means a health care service plan as defined in subdivision (f) of Section 1345 or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5) ''County welfare department'' means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) (1) Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Health Services. Local health officers and the State Department of Health Services may operate these systems in either or both of the following manners:

(A) Separately within their individual jurisdictions.

(B) Jointly among more than one jurisdiction.

(2) Nothing in this subdivision shall preclude local health officers from sharing the information set forth in paragraphs (1) to (9), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c) Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 6 (commencing with Section 10850), or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, child care facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, and county welfare departments, may disclose the information set forth in paragraphs (1) to (9), inclusive, from the patient's medical record, or the client's record, to local health departments operating countywide immunization information and reminder systems and the State Department of Health Services. Local health departments and the State Department of Health Services may disclose the information set forth in

paragraphs (1) to (9), inclusive, to each other, and upon a request for information pertaining to a specific person, to health care providers taking care of the patient. Local health departments and the State Department of Health Services may disclose the information in paragraphs (1) to (6), inclusive, and paragraphs (8) and (9), to schools, child care facilities, county welfare departments, and family child care homes to which the person is being admitted or in attendance, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1) The name of the patient or client and names of the parents or guardians of the patient or client.

(2) Date of birth of the patient or client.

(3) Types and dates of immunizations received by the patient or client.

(4) Manufacturer and lot number for each immunization received.

(5) Adverse reaction to immunizations received.

(6) Other nonmedical information necessary to establish the patient's or client's unique identity and record.

(7) Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(8) Patient's or client's gender.

(9) Patient's or client's place of birth.

(d) (1) Health care providers, local health departments, and the State Department of Health Services shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other medical record information with patient identification that they possess. These providers, departments, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A) To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B) To provide or facilitate provision of third-party payer payments for immunizations.

(C) To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in

California, without identifying information for these patients or clients included in these groups or populations.

(D) In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2) Schools, child care facilities, family child care homes, WIC service providers, county welfare departments, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A) In the case of schools, child care facilities, family child care homes, and county welfare departments, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325), and in Section 11265.8 of the Welfare and Institutions Code.

(B) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.

(C) In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.

(e) A patient or a patient's parent or guardian may refuse to permit recordsharing. The health care provider administering immunization and any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform the patient or client, or the parent or guardian of the patient or client, of the following:

(1) The information listed in subdivision (c) may be shared with local health departments, and the State Department of Health Services. The health care provider or other agency shall provide the name and address of the department or departments with which the provider or other agency will share the information.

(2) Any of the information shared with local health departments and the State Department of Health Services shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, child care facilities,

family child care homes, WIC service providers, county welfare departments, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3) The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information shared in this manner and to correct any errors in it.

(4) The patient or client, or the parent or guardian of the patient or client, may refuse to allow this information to be shared in the manner described, or to receive immunization reminder notifications at any time, or both.

(f) If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(g) Upon request of the patient or client, or the parent or guardian of the patient or client, in writing or by other means acceptable to the recipient, a local health department or the State Department of Health Services that has received information about a person pursuant to subdivision (c) shall do all of the following:

(1) Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(2) Stop sharing the information in its possession after the date of the receipt of the request.

(h) Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the State Department of Health Services that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(i) Section 120330 shall not apply to this section.

SEC. 2. Section 120440 of the Health and Safety Code is amended to read:

120440. (a) For the purposes of this chapter, the following definitions shall apply:

(1) ''Health care provider'' means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2) ''Schools, child care facilities, and family child care homes'' means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3) ''WIC service provider'' means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4) ''Health care plan'' means a health care service plan as defined in subdivision (f) of Section 1345 or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5) ''Local registry'' means an immunization information system operated by a city or county health department.

(6) ''Regional registry'' means an immunization information system operated on a multicounty or multicity health department basis.

(7) ''County welfare department'' means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) (1) Local health departments may operate local or regional registries pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Health Services.

(2) Health care providers providing immunizations to persons 18 years of age and younger shall be required to participate in a local or regional registry, either directly or through the Statewide Immunization Information System, when the department has certified that the local or regional registry is functional and able to accommodate participation by all providers in the registry's service area. Department certification shall include, but shall not be limited to, consultation with health care providers and the ability of the registry to provide technical support. Local or regional registries may not charge health care providers for any training that is necessary for the health care registry provider to participate in the registry. However, with respect to information concerning a specific patient or client, information shall not be included in the local or regional registry if consent has been withheld by the patient or client, or, in the case of a patient or client under 18 years of age who is not legally emancipated, by the patient's or client's parent or legal guardian.

(3) Nothing in this section shall preclude local health officers from sharing the information set forth in paragraphs (1) to (9), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c) Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 6 (commencing with Section 10850), or any other provision of law, unless a refusal to permit recordsharing is made

pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, child care facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, and county welfare departments, may disclose the information set forth in paragraphs (1) to (9), inclusive, from the patient's medical record or the client's record, to local health departments operating local or regional registries and the State Department of Health Services. Local health departments and the State Department of Health Services may disclose the information set forth in paragraphs (1) to (9), inclusive, to each other, and upon a request for information pertaining to a specific person, to health care providers taking care of the patient. Local health departments and the State Department of Health Services may disclose the information in paragraphs (1) to (6), inclusive, and paragraphs (8) and (9), to schools, child care facilities, county welfare departments, and family child care homes to which the person is being admitted or in attendance, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county welfare departments assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1) The name of the patient or client and names of the patient's parents or guardians of the patient or client.

(2) Date of birth of the patient or client.

(3) Types and dates of immunizations received by the patient or client.

(4) Manufacturer and lot number for each immunization received.

(5) Adverse reaction to immunizations received.

(6) Other nonmedical information necessary to establish the patient's or client's unique identity and record.

(7) Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(8) Patient's or client's gender.

(9) Patient's or client's place of birth.

(d) (1) Health care providers, local health departments, and the State Department of Health Services shall maintain the confidentiality of information listed in subdivision (c) and any information contained in a local or regional registry or in the Statewide Immunization Information System in the same manner as other medical record information with patient identification that they possess. These providers, departments and contracting agencies shall be subject to civil action and criminal

penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A) To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B) To provide or facilitate provision of third-party payer payments for immunizations.

(C) To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in California, without identifying information for these patients or clients included in these groups or populations.

(D) In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2) Schools, child care facilities, family child care homes, WIC service providers, and county welfare departments, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A) In the case of schools, child care facilities, and family child care homes, and county welfare departments, to carry out their responsibilities regarding required immunization for attendance, or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325) and in Section 11265.8 of the Welfare and Institutions Code.

(B) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.

(C) In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.

(e) A patient or a patient's parent or guardian may refuse to permit recordsharing. The health care provider administering immunization and any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform

the patient or clients, or the parent or guardian of the patient or client of the following:

(1) The information listed in subdivision (c) may be shared with local health departments, and the State Department of Health Services. The health care provider or other agency shall provide the name and address of the department or departments with which the provider or other agency will share the information.

(2) Any of the information shared with local health departments and the State Department of Health Services shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, child care facilities, family child care homes, WIC service providers, county welfare departments, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3) The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information shared in this manner and to correct any errors in it.

(4) The patient or the client, or parent or guardian of the patient or client, may refuse to allow this information to be shared in the manner described, or to receive immunization reminder notifications at any time, or both.

(f) If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(g) Upon request of the patient or the client, or the parent or guardian, of the patient or client in writing or by other means acceptable to the recipient, a local health department or the State Department of Health Services that has received information about a person pursuant to subdivision (c) shall do all of the following:

(1) Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(2) Stop sharing the information in its possession after the date of the receipt of the request.

(h) Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the State Department of Health Services that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(i) Section 120330 shall not apply to this section.

SEC. 3. Section 2 of this bill incorporates amendments to Section 120440 of the Health and Safety Code proposed by both this bill and AB 2013. 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 120440 of the Health and Safety Code, and (3) this bill is enacted after AB 2013, in which case Section 1 of this bill shall not become operative.

CHAPTER 594

An act to add and repeal Section 20133 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 20133 is added to the Public Contract Code, to read:

20133. (a) (1) This section provides for an alternative procedure on bidding on building construction projects in excess of ten million dollars ($10,000,000) applicable only in the Counties of Alameda, Contra Costa, Sacramento, Santa Clara, Solano, Sonoma, and Tulare, upon approval of the appropriate board of supervisors.

(2) For projects with costs ranging from ten million dollars ($10,000,000) to twenty million dollars ($20,000,000), inclusive, the contract shall be awarded to the lowest responsible bidder. For projects costing over twenty million dollars ($20,000,000), the county may award the project using either the lowest responsible bidder or by best value.

(b) (1) It is the intent of the Legislature to enable these counties to utilize cost-effective options for building and modernizing public facilities. The Legislature also recognizes the national trend, including authorizations in California, to allow public entities to utilize design-build contracts as a project delivery method.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The benefits of a design-build contract project delivery system include an accelerated completion of the projects, cost containment, reduction of construction complexity, and reduced exposure to risk for the county. The Legislature also finds that the cost-effective benefits to the counties

are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(3) It is the intent of the Legislature to provide an alternative and optional procedure for bidding and building construction projects for these counties.

(4) The design-build approach may be used, but is not limited to use when it is anticipated that it will: reduce project cost, expedite project completion, or provide design features not achievable through the design-bid-build method.

(5) If the board of supervisors elects to proceed under this section, the board of supervisors shall establish and enforce for design-build projects a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the county or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(c) As used in this section:

(1) ''Best value'' means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the county.

(2) ''Design-build'' means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) ''Design-build entity'' means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The county shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type and desired design character of the buildings and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the county's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the county to assist in the development of the project specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the county shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the county. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the county to inform interested parties of the contracting opportunity, to include the methodology that will be used by the county to evaluate proposals and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors which the county reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of paragraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the county chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately or incorporate into the request for proposal applicable rules and procedures to be observed by the county to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The county shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the county. In preparing the questionnaire, the county shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the

project, as well as a financial statement that assures the county that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or other association, that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the design-build contract.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5, Division 7, Title 1 of the Government Code) shall not be open to public inspection.

(4) The county shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) A county may use a design-build competition based upon best value and other criteria set forth in paragraph (2) of subdivision (d). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall collectively represent at least 50 percent of the total weight of consideration given to all criteria factors; price, technical design and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the county shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the county's second and third ranked design-build entities.

(v) For the purposes of this paragraph, ''skilled labor force availability'' shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For the purposes of this paragraph, a bidder's ''safety record'' shall be deemed ''acceptable'' if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their

average Total Recordable Injury/Illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omission insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the county.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the county in the design-build package. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the county.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the county.

(h) The county may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the county elects to award a project pursuant to this section retention proceeds withheld by the county from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the county and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the county and the design-build entity from any payment made by the design-build entity to the subcontractor.

(*l*) Each county that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's office, the Senate Committee on Local Government, and the Assembly Committee on Local Government before December 1, 2004, a report containing a description of each public works project procured through the design-build process, and completed on or before November 1, 2004. The report shall include, but shall not be limited to, all of the following information:

(1) The type of facility.

(2) The gross square footage of the facility.

(3) The design-build entity who was awarded the project.

(4) The estimated and actual length of time to complete the project.

(5) The estimated and actual project costs.

(6) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.

(7) An assessment of the prequalification process and criteria.

(8) An assessment of the impact of retaining 5 percent retention on the project.

(9) A description of the Labor Force Compliance program and an assessment of the project impact, where required.

(10) A description of the method used to award the contract. If best value was the method, the factors used to evaluate the bid shall be described, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(11) An assessment of the project impact of ''skilled labor force availability''.

(12) An assessment of the design-build dollar limits on county projects. This shall include projects where the county wanted to use design-build and was precluded by the dollar limitation. It shall also include projects where the best value method of awarding contracts was not used, due to dollar limitations.

(13) An assessment of the most appropriate uses for the design-build approach.

(m) Any county named in this section that elects to not use the authority granted herein may also submit a report to the entities named and in accordance with the schedule in subdivision (*l*). This report may include an analysis of why the authority granted herein was not used by the county.

(n) On or before January 1, 2005, the Legislative Analyst shall report to the Legislature on the use of the design-build method by counties pursuant to this section, including the information listed in subdivision (*l*). The report may include recommendations for modifying or extending this section.

(o) 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.

CHAPTER 595

An act to amend Section 53398.3 of the Government Code, relating to infrastructure financing districts.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 53398.3 of the Government Code is amended to read:

53398.3. (a) A district may finance (1) the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b), (2) the planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of that property, and (3) the costs described in Sections 53398.5 and 53398.31. A district may only finance the purchase of facilities for which construction has been completed, as determined by the legislative body. The facilities need not be physically located within the boundaries of the district. A district may not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities that provide significant benefits to the area of the border development zone, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, major and minor arterial streets, major and minor collector streets, parking facilities, and transit facilities. Phased road widening projects shall also be permitted.

(2) Sewage collection, pumping, treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage facilities.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Public safety facilities.

(c) Any district that constructs dwelling units shall set aside not less than 20 percent of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, to persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code.

(d) A district may also finance the purchase of sewage treatment capacity that provides significant benefits to the area of the border development zone. The facility providing the sewage treatment capacity need not be physically located within the boundaries of the district.

CHAPTER 596

An act to repeal Title 7.7 (commencing with Section 67410) of the Government Code, to amend Section 20301.5 of the Public Contract Code, to amend and repeal Section 10753 of the Revenue and Taxation Code, to amend Section 339 of the Streets and Highways Code, to amend Section 21752 of, and to add Section 12512 to, the Vehicle Code, relating to transportation.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Title 7.7 (commencing with Section 67410) of the Government Code is repealed.

SEC. 2. Section 20301.5 of the Public Contract Code is amended to read:

20301.5. (a) Notwithstanding Section 20301, the district may let a design-and-build contract for any project for a transit center or station, transit park-and-ride lot, bus and light rail maintenance facility, or administrative office building, or any combination of those, upon approval by the board of directors. The district also may let a design-and-build contract for the Fremont-South Bay Commuter Rail Project contained in Santa Clara County's 1996 Measure B Transportation Improvement Program, upon approval by the board of directors.

(b) (1) If the board of directors elects to proceed under subdivision (a), before entering into any contract that requires advertising for bids for a project, the board shall cause to be prepared estimates, and shall prepare documents, for the solicitation of bids on a design-and-build basis.

(2) For the purposes of this section, ''design and build'' means a method of procuring design and construction from a single source. The selection of the single source shall occur before the development of complete plans and specifications.

(c) The request for submission of bids shall include all of the following:

(1) A clear, precise description of the services to be provided and work to be performed.

(2) A description of the format that submittals shall follow and the elements they shall contain, including the qualifications and relevant experience of the design professional and the contractor, and the criteria that shall be used in evaluating the submittal, including the bid price.

(3) A requirement that bidders submit their proposals with the construction bid price and all cost information in a separate sealed envelope.

(4) The date on which the submittals are due, and the timetable that will be used in reviewing and evaluating the submittals.

(d) All submittals received prior to the closing time stated in the request for submittal shall be reviewed to determine those that meet the format requirements and the standards specified in the request for submittal.

(e) The contract shall be awarded to the lowest responsible bidder meeting the standards of the request for submittal.

(f) For the purposes of this section, selections of design professionals shall meet the standards set forth in Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(g) This section shall apply only to a project that is under the supervision of a licensed general building contractor, as defined in Section 7057 of the Business and Professions Code.

SEC. 3. Section 10753 of the Revenue and Taxation Code, as amended by Section 14 of Chapter 724 of the Statutes of 1999, is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. ''Cost price'' includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any commercial vehicle is modified or additions are made to the chassis or body at a cost of two thousand dollars ($2,000) or more, but not including any change of engine of the same type or any cost of repairs to a commercial vehicle, the owner of the commercial vehicle shall report any modification or addition to the department and the department shall classify or reclassify the commercial vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the commercial vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) does not apply under any of the following conditions:

(A) When the cost of any modification or addition to the chassis or body of a commercial vehicle is less than two thousand dollars ($2,000).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(3) For purposes of this subdivision, ''commercial vehicle'' means a ''commercial vehicle,'' as defined in Section 260 of the Vehicle Code, that is regulated by the Department of the California Highway Patrol pursuant to Sections 2813 and 34500 of the Vehicle Code.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) For purposes of this section, ''vehicle'' does not include trailers or semitrailers.

SEC. 4. Section 10753 of the Revenue and Taxation Code, as amended by Section 15 of Chapter 724 of the Statutes of 1999, is repealed.

SEC. 5. Section 339 of the Streets and Highways Code is amended to read:

339. Route 39 is from:

(a) Route 1 near Huntington Beach to Route 72 in La Habra via Beach Boulevard.

(b) Beach Boulevard to Harbor Boulevard in La Habra via Whittier Boulevard.

(c) Whittier Boulevard in La Habra to Route 2 via Harbor Boulevard to the vicinity of Fullerton Road, then to Azusa Avenue, Azusa Avenue to San Gabriel Canyon Road, San Gabriel Avenue southbound between Azusa Avenue and San Gabriel Canyon Road, and San Gabriel Canyon Road.

The department shall not assume maintenance of any portion of Route 39 until that portion has been constructed or reconstructed to the minimum state highway standards established pursuant to Sections 81 and 2109.

(d) Notwithstanding subdivision (c), the portion of Route 39 that is within the city limits of the City of Azusa, except that portion that is north of post mile 17, shall cease to be a state highway when the department and the City of Azusa reach agreement on the terms of the relinquishment of that portion of Route 39 to that city. The terms of the relinquishment agreement shall require that any lump-sum payment from the department to the City of Azusa be deposited by that city in a special account and used solely for improvements on Azusa Avenue and San Gabriel Avenue in the City of Azusa.

(e) (1) Notwithstanding subdivision (c), the commission may relinquish to the City of Covina the portion of Route 39 that is located within the city limits of 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 commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 39 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 39 relinquished under this subdivision may not be considered for future adoption under Section 81.

SEC. 6. Section 12512 is added to the Vehicle Code, to read:

12512. Except as provided in Sections 12513, 12514, and 12814.6, no license to drive shall be issued to a person under the age of 18 years.

SEC. 7. Section 21752 of the Vehicle Code is amended to read:

21752. No vehicle shall be driven to the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(b) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(c) When approaching within 100 feet of or when traversing any railroad grade crossing.

(d) When approaching within 100 feet of or when traversing any intersection.

This section shall not apply upon a one-way roadway.

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CHAPTER 597

An act to add and repeal Chapter 6.5 (commencing with Section 9520) of Division 8.5 of the Welfare and Institutions Code, relating to aging, and making an appropriation therefor.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

On this date I signed Assembly Bill 2558 with a reduction.

AB 2558 would establish a 3-year neighborhood-based pilot program administered by the California Commission on Improving Life through Services (CILTS), to promote the involvement of senior volunteers in working with children and school staff.

While I am supportive of incorporating senior volunteerism into state volunteer efforts coordinated by CILTS, the program outlined in this bill merits further study. Therefore, I am directing CILTS to (1) prepare a review of existing programs that engage seniors in service, (2) identify new and promising entrepreneurial strategies that take advantage of the unique characteristics of this new generation of seniors, (3) identify priorities which a senior volunteer force can best impact, and (4) propose a structure for investment of any future financial resources which maximizes public and private funding and social impact. I expect this study to be completed within six months. Therefore, I am reducing the appropriation contained in the bill by $900,000 to reflect the amount needed to conduct this review. The revised appropriation shall be $100,000.

GRAY DAVIS, Governor

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

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

(a) California's senior citizens are the healthiest, most vigorous, and well-educated senior population in history and are a reservoir of experience, practical knowledge, and lasting values.

(b) Americans aged 50 to 75 years ranked community service second in priority only to travel in a recent survey, titled ''The New Face of Retirement,'' by Peter D. Hart Research Associates.

(c) Continued involvement in productive activity and the presence of strong social networks are the two most important factors contributing to prolonged well-being later in life, according to a decade-long inquiry by the MacArthur Foundation into successful aging.

(d) Retirement vastly increases free time. Upon retirement, men gain an added 25 hours per week of free time and women gain an added 18 hours per week of free time.

(e) The aging of the ''Baby Boomer'' generation will lead to a tripling of the number of Californians over 65 years of age. This segment of the population is expected to increase from 3.1 million persons in 1990 to 10.1 million persons in 2030.

(f) Although the Hart Survey found that 55 percent of older Americans want to volunteer more while only 4 percent want to volunteer less, volunteering currently falls off sharply after retirement.

(g) Therefore, it is the intent of the Legislature to establish an Experience Corps pilot program to engage the time, talents, and skills of California seniors. It is further the intent of the Legislature, that through the program, seniors will assist staff at schools by serving as tutors, mentors, and role models for school children in need.

SEC. 2. Chapter 6.5 (commencing with Section 9520) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 6.5. SENIOR VOLUNTEER PILOT PROGRAM

9520. The California Commission on Improving Life Through Service, in consultation with an advisory board consisting of representatives of the State Department of Education, the California Department of Aging, the Corporation for National Service, representatives of either the federal Retired Senior Volunteer Program or the federal Foster Grandparent Program, and representatives of Civic Ventures or one or more experts on Experience Corps programs, shall establish a three-year intergenerational neighborhood-based pilot program, consisting of a minimum of seven programs throughout the state, to promote the use of senior volunteers in working with children and school staff. Programs shall be designed and implemented by partnerships of organizations whose membership makes significant contributions and brings expertise in the areas of education, tutoring, and mentoring both in school and after-school venues and mobilizing and supporting senior volunteers. No less than 50 percent of local programs selected for funding shall be operated by partnerships that have existing National Senior Service Corps programs acting as the legal applicant. Local program selection criteria will include the strength and breadth of the partnership and its coordination with existing senior volunteer programs in those communities where they exist. The program shall commence operation in March 2001, and terminate in March 2004.

9521. The pilot program established pursuant to this chapter shall be based upon the best practices of existing Experience Corps programs such as the Sunset Neighborhood Beacon Center Experience Corps in San Francisco.

9522. The advisory board specified in Section 9520 shall adopt criteria to determine the effectiveness of the program required by this chapter.

9523. This chapter shall become inoperative on September 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. 3. There is hereby appropriated the sum of one million dollars ($1,000,000) from the General Fund to the California Commission on Improving Life Through Service for the purpose of implementing the pilot program established pursuant to Chapter 6.5 (commencing with Section 9520) of Division 8.5 of the Welfare and Institutions Code.

CHAPTER 598

An act to add Section 6359 to the Labor Code, relating to labor.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 6359 is added to the Labor Code, to read:

6359. (a) The Legislature finds and declares the following:

(1) Every year 70 adolescents die from work injuries in the United States and 200,000 are injured, 70,000 seriously enough to require hospital treatment. Most of these injuries are preventable.

(2) A recent report by the Institute of Medicine and the National Research Council has brought national attention to the need for better education and interventions to aid injury and illness prevention efforts aimed at young workers.

(3) Since 1996, the California Study Group on Young Workers' Health and Safety, consisting of 30 representatives from key agencies and organizations involved with California youth employment and education issues, including representatives from government agencies, business, labor, parent and teacher organizations, and others, has met to develop recommendations to better protect and educate California's young workers.

(4) The study group recommended the establishment of a Resource Network on Young Workers' Health and Safety, to assist in increasing the ability of young workers and their communities to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job.

(b) It is the intent of the Legislature that the Department of Industrial Relations, the University of California, the State Department of Education, the State Department of Health Services, and the Employment Development Department cooperatively and individually

conduct activities aimed at the prevention of occupational injuries and illnesses among young workers.

(c) The Department of Industrial Relations shall contract with a coordinator to establish a statewide young worker health and safety resource network. The primary function of the resource network shall be to assist in increasing the ability of young workers and their communities statewide to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job. The network shall coordinate and augment existing outreach and education efforts and provide technical assistance, education materials and other support to schools, job training programs, employers and other organizations working to educate students and their communities about workplace health and safety and child labor laws.

(d) The resource network shall provide, and the lead center shall coordinate, services to all key groups throughout the state involved in education and protecting young workers, including, but not limited to:

(1) Teachers.

(2) Schools.

(3) Job training programs.

(4) Employers of youth.

(5) Parent groups.

(6) Youth organizations.

(7) Work permit issuers.

(e) The resource network shall be advised by a statewide advisory group, including, but not limited to, representatives from the Department of Industrial Relations, the Commission on Health and Safety and Worker's Compensation, the University of California, the State Department of Education, the Department of Health Services, and the Employment Development Department, as well as business, labor, parents, and others experienced in working with youth doing agricultural and nonagricultural work. The advisory group shall represent diverse geographic regions of the state.

(f) This section shall be implemented subject to the availability of funding for the purposes of this section in the 2000–01 Budget Act.

SEC. 2. The Legislature recognizes that funds appropriated by Item 8350-001-0001 of Section 2.00 of the Budget Act of 2000–01 may also be used by the Department of Industrial Relations to enter into a contract or an interagency agreement for costs related to the enforcement activities by appropriate authorities due to referrals made pursuant to Chapter 1 (commencing with Section 6300) of Part 1 of Division 5 of the Labor Code.

CHAPTER 599

An act to add Section 35706.5 to the Education Code, relating to school district reorganization.

[Approved by Governor September 22, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 35706.5 is added to the Education Code, to read:

35706.5. (a) No action to reorganize the boundaries of a school district shall be initiated or completed without the consent of a majority of all of the members of the governing board of the school district if both of the following conditions apply to the school district:

(1) It has obtained an emergency apportionment loan from the State of California, but the Superintendent of Public Instruction has determined that a state administrator is no longer necessary, and has restored, prior to the effective date of this section, the legal rights, duties, and powers of the governing board of the district pursuant to Section 41326.

(2) It has a student population 70 percent of which is from either a ''lower income household'' or ''very low income household'' as those terms are defined in Sections 50079.5 and 50105, respectively, of the Health and Safety Code.

(b) For purposes of this section, for any school district that meets the description specified in paragraph (1), consent to an action to reorganize the boundaries of the school district shall no longer be required when 10 years have elapsed from the date of final payment by the school district of the emergency loan to the State of California.

CHAPTER 600

An act to amend Sections 6055 and 6203.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 6055 of the Revenue and Taxation Code is amended to read:

6055. (a) A retailer is relieved from liability for sales tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the tax may, under rules and regulations prescribed by the board, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the tax shall be paid with the return. For purposes of this subdivision, the term ''retailer'' shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.

(b) (1) In the case of accounts held by a lender, a retailer or lender who makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:

(A) No deduction was previously claimed or allowed on any portion of the accounts.

(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a).

(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.

(D) The retailer remitted the tax on or after January 1, 2000.

(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the board.

(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.

(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the board in accordance with Section 6451.

(3) For purposes of this subdivision, the term ''lender'' means any of the following:

(A) Any person who holds a retail account which that person purchased directly from a retailer who reported the tax.

(B) Any person who holds a retail account pursuant to that person's contract directly with the retailer who reported the tax.

(C) Any person who is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in

subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).

(4) Prior to claiming any deduction or refund under this subdivision, the retailer who reported the tax and the lender shall file an election with the board, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is filed with the board.

SEC. 2. Section 6203.5 of the Revenue and Taxation Code is amended to read:

6203.5. (a) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the amount of the tax may, under rules and regulations prescribed by the board, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the amount of the tax shall be paid with the return. For purposes of this subdivision, the term ''retailer'' shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.

(b) (1) In the case of accounts held by a lender, a retailer or lender who makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:

(A) No deduction was previously claimed or allowed on any portion of the accounts.

(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a).

(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.

(D) The retailer remitted the tax on or after January 1, 2000.

(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the board.

(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.

(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the board in accordance with Section 6451.

(3) For purposes of this subdivision, the term ''lender'' means any of the following:

(A) Any person who holds a retail account which that person purchased directly from a retailer who reported the tax.

(B) Any person who holds a retail account pursuant to that person's contract directly with the retailer who reported the tax.

(C) Any person who is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).

(4) Prior to claiming any deduction or refund under this subdivision, the retailer who reported the tax and the lender shall file an election with the board, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is filed with the board.

CHAPTER 601

An act to amend Sections 214 and 237 of, and to add Section 230 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the organization, are not subject to the tax on unrelated business taxable income that is imposed by Section 511 of the Internal Revenue Code, and are used to further the exempt activity of the organization.

(B) For purposes of subparagraph (A):

(i) ''Occasional use'' means use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization described in clause (ii) of subparagraph (A) that is incidental to the primary activities of the owner or the other organization.

(ii) ''Fundraising activities'' means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have filed with the assessor duplicate copies of valid unrevoked letters or rulings from the Internal Revenue Service that state that the owner and the other organization qualify as exempt

organizations under Section 501(c)(3) of the Internal Revenue Code. The owner of the property and any other organization using the property as provided in subparagraph (A) also shall file duplicate copies of their most recently filed federal income tax returns.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization's primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a). The owner or the other organization also shall file with the assessor duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return.

Nothing in subparagraph (A), (B), (C), or (D) shall be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States (except

that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research, and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the ''welfare exemption.'' This exemption shall be in addition to any other exemption now provided by law, and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational

purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property that is equal to the percentage that the number of low- and moderate-income elderly and handicapped families occupying the property represents of the total number of families occupying the property.

As used in this subdivision, ''low and moderate income'' has the same meaning as the term ''persons and families of low or moderate income'' as defined by Section 50093 of the Health and Safety Code.

(g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section, or by veterans' organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property that the portion of the property serving lower income households represents of the total property in any year in which either of the following criteria applies:

(A) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this subparagraph, may not exceed twenty thousand dollars ($20,000) of tax.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency or, a recorded deed restriction, or other legal document that restricts the project's usage and that provides that the units designated for use by lower income households are continuously available to or

occupied by lower income households 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 conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision, ''lower income households'' has the same meaning as the term ''lower income households'' as defined by Section 50079.5 of the Health and Safety Code.

(h) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property that otherwise would be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

As used in this subdivision, ''emergency or temporary shelter'' means a facility that would be eligible for funding pursuant to Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code.

(i) Property used exclusively for housing and related facilities for employees of religious, charitable, scientific, or hospital organizations that meet all the requirements of subdivision (a) and owned and operated by funds, foundations, or corporations that meet all the requirements of subdivision (a) shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the California Constitution and this section to the extent the residential use of the property is institutionally necessary for the operation of the organization.

(j) For purposes of this section, charitable purposes include educational purposes. For purposes of this subdivision, ''educational purposes'' means those educational purposes and activities for the benefit of the community as a whole or an unascertainable and indefinite portion thereof, and shall not include those educational purposes and

activities that are primarily for the benefit of an organization's shareholders. Educational activities include the study of relevant information, the dissemination of that information to interested members of the general public, and the participation of interested members of the general public.

SEC. 2. Section 230 is added to the Revenue and Taxation Code, to read:

230. (a) With regard to taxes that attach as a lien on or after January 1, 2001, wooden vessels of historical significance, and all personal property thereon used in their operation, are exempt from taxation. This exemption applies if all of the following conditions are satisfied:

(1) The owner and operator is a nonprofit organization that has qualified for exemption under either Section 23701d of this code or under Section 501(c)(3) of the Internal Revenue Code.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The vessel is used primarily as, or as a part of, a maritime museum that is regularly open to the public.

(4) Income from fundraising use and use for charter activities does not exceed 40 percent of operating revenues of the vessel, and all net earnings are used to further the exempt activity of the museum.

(b) When claiming an exemption pursuant to this section, a claiming organization shall give all information required and answer all questions in an affidavit, to be furnished by the assessor, that is signed by the claimant under penalty of perjury. The assessor may require other proof of the facts stated in the affidavit before allowing the exemption. A claimant for an exemption pursuant to this section is subject to Sections 255 and 260.

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

(1) ''Wooden vessel of historical significance'' means any wooden vessel that is a refurbished original, wooden inland waters vessel of 47 feet or larger, built in California during or prior to 1910, that continuously thereafter has remained in California waters, and that has been designated a California State Historical Landmark.

(2) ''Regularly open to the public'' means that the museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

SEC. 3. Section 237 of the Revenue and Taxation Code is amended to read:

237. (a) (1) Subject to the requirements set forth in paragraph (2), there is exempt from taxation under this part that portion of the assessed value of property, owned and operated by a federally designated Indian tribe or its tribally designated housing entity , that corresponds to that

portion of the property that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 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.

(2) The exemption set forth in subdivision (a) applies only if the property and entity meet the following requirements:

(A) At least 30 percent of the property's housing units are either continuously available to, or occupied by, lower income households, as defined in Section 50079.5 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.

(B) The housing entity is nonprofit.

(C) 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 requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a).

SEC. 4. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 602

An act to amend Section 95.31 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 95.31 of the Revenue and Taxation Code is amended to read:

95.31. (a) (1) Notwithstanding any other provision of law, any eligible county may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of that county adopted not later than December 1 of the fiscal year for which it is to first apply, elect to participate in the State-County Property Tax Administration Loan Program.

(2) Except as specified in paragraph (3), for the purposes of this section, an eligible county shall mean a county in which additional property tax revenue allocated to school entities would reduce the amount of General Fund moneys apportioned to school entities. However, eligibility shall be terminated when, in combination with resources in the Educational Revenue Augmentation Fund, additional property tax revenues allocated to school entities will not result in a reduction in the General Fund apportionments.

(3) Notwithstanding paragraph (2), both the County of Solano and the County of San Benito shall be deemed eligible counties that may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of the county adopted on or before March 31, 1996, elect to participate in the State-County Property Tax Administration Loan Program.

(4) Notwithstanding paragraph (1), any county in which a new assessor is elected in 1998 may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of the county adopted on or before January 31, 1999, elect to participate in the State-County Property Tax Administration Loan Program commencing with the 1998–99 fiscal year.

(b) (1) In each fiscal year from the 1995–96 fiscal year to the 2001–02 fiscal year, inclusive, an eligible county participating in the

State-County Property Tax Administration Loan Program may receive a loan for up to the amount listed in paragraph (3). The loan shall be repaid by June 30 of the fiscal year following the year in which the loan is made. However, at the discretion of the Director of Finance, the loan may be renewed once for an additional 12-month period at the request of the participating county board of supervisors. For the Counties of Fresno, Orange, San Benito, and Solano any loan agreement signed on or before July 31, 1996, shall be deemed a loan agreement for the 1995–96 fiscal year for the purposes of this section. For any county in which a new assessor is elected in 1998, any loan agreement signed on or before January 31, 1999, shall be deemed a loan agreement for the 1998–99 fiscal year for the purposes of this section.

(2) If an eligible county elects to participate in the State-County Property Tax Administration Loan Program, it shall enter into a contractual agreement with the Department of Finance. At a minimum, the contractual agreement shall include the following:

(A) The loan amount, as determined by the Director of Finance.

(B) Repayment provisions, including the interception of Motor Vehicle License Fee Account moneys apportioned pursuant to Section 11005 to repay the General Fund.

(C) A listing of the proposed use of the additional resources including, but not limited to:

(i) Proposed new positions.

(ii) Increased automation costs.

(D) An agreement to provide to the Department of Finance, by March 31 of the fiscal year in which the loan is made, a report projecting the impact of the increased funding in the current and subsequent fiscal year.

(3) Upon request of the Department of Finance, the Controller shall provide a loan to the following counties for up to the amount specified by the Director of Finance, not to exceed the following amounts:

Jurisdiction	Amount
Alameda	$ 2,152,429
Alpine	3,124
Amador	80,865
Butte	381,956
Calaveras	109,897
Colusa	53,957
Contra Costa	2,022,088
Del Norte	36,203
El Dorado	302,795
Fresno	1,165,249
Glenn	59,197

Humboldt	210,806
Imperial	231,673
Inyo	100,080
Kern	1,211,318
Kings	138,653
Lake	117,376
Lassen	54,699
Los Angeles	13,451,670
Madera	212,991
Marin	790,490
Mariposa	46,476
Mendocino	160,435
Merced	298,004
Modoc	24,022
Mono	47,778
Monterey	795,819
Napa	366,020
Nevada	234,292
Orange	6,826,325
Placer	628,047
Plumas	80,606
Riverside	2,358,068
Sacramento	1,554,245
San Benito	90,408
San Bernardino	2,139,938
San Diego	5,413,943
San Francisco	1,013,332
San Joaquin	818,686
San Luis Obispo	736,288
San Mateo	2,220,001
Santa Barbara	926,817
Santa Clara	4,213,639
Santa Cruz	565,328
Shasta	342,399
Sierra	7,383
Siskiyou	91,164
Solano	469,207
Sonoma	1,035,049
Stanislaus	866,155
Sutter	147,436

Tehama	97,222
Trinity	24,913
Tulare	501,907
Tuolumne	126,067
Ventura	1,477,789
Yolo	278,309
Yuba	88,968

(4) The Department of Finance shall consider any or all of the following items in determining the extent to which a county has satisfied the terms and repaid the loan, pursuant to the contract, as offered under this part:

(A) County performance as indicated by the State Board of Equalization's sample survey required pursuant to Section 15640 of the Government Code.

(B) Performance measures adopted by the California Assessors' Association.

(C) Reduction of backlog of assessment appeals and Proposition 8 declines in value.

(D) County compliance with mandatory audits required by Section 469.

(E) Reduction of backlogs in new construction, changes in ownership, and supplemental roll.

(F) Other measures, as determined by the Director of Finance.

(5) The Director of Finance shall notify the Controller of any participating county that fails to comply with the terms of the agreement, including the repayment of the loan. When the Controller receives notice from the Director of Finance, the Controller shall make an apportionment to the General Fund on behalf of the participating county in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the participating county is entitled at that time under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2, and shall thereupon reduce, by the amount of the payment, the subsequent allocation or allocations to which the county would otherwise be entitled under that chapter.

(c) (1) Funds appropriated for purposes of this section shall be used to enhance the property tax administration system by providing supplemental resources. Amounts provided to any county as a loan pursuant to this section shall not be used to supplant the current level of funding. In order to participate in the State-County Property Tax Administration Loan Program, a participating county shall maintain a

base staffing, including contract staff, and total funding level in the county assessor's office, independent of the loan proceeds provided pursuant to this act, equal to the levels in the 1994–95 fiscal year exclusive of amounts provided to the assessor's office pursuant to Item 9100-102-001 of the Budget Act of 1994. However, in a county in which the 1994–95 funding level for the assessor's office was higher than the 1993–94 level, the 1993–94 fiscal year staffing and funding levels shall be considered the base year for purposes of this section. Commencing with the 1996–97 fiscal year, if a county was otherwise eligible but was unable to participate in this program in the 1995–96 fiscal year because it did not meet the funding level and staffing requirements of this paragraph, that county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office equal to the levels in the 1995–96 fiscal year.

(2) Prior to the assessor's recommendation for participation in the State-County Property Tax Administration Loan Program, the assessor shall consult with the county tax collector, and any other county agency directly involved in property tax administration, to discuss the needs of the program for the duration of the contractual agreement.

(d) A participating county may establish a tracking system whereby a work or function number is assigned to each appraisal or administrative activity. That system should provide statistical data on the number of production units performed by each employee and the positive and negative change in assessed value attributable to the activities performed by each employee.

(e) Notwithstanding Section 95.3, no amount of funds provided to an eligible county pursuant to this section shall result in any deduction from those property tax administrative costs that are eligible for reimbursement pursuant to Section 95.3.

(f) At the request of the Department of Finance, the board shall assist the Department of Finance in evaluating contracts entered into pursuant to this section.

CHAPTER 603

An act to amend Section 17052.2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 17052.2 of the Revenue and Taxation Code, as added by Chapter 75 of the Statutes of 2000, is amended 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) Fifty percent of the amount determined as follows:

(A) Divide the amount received by the taxpayer as wages and salary for services as a credentialed teacher, as defined in paragraph (3) of subdivision (c), by the taxpayer's total adjusted gross income from all sources.

(B) Multiply the taxpayer's total tax, as defined in paragraph (4) of subdivision (c), by a ratio, not to exceed 1.00, that is otherwise equal to the ratio determined for the taxpayer under subparagraph (A).

(c) For purposes of this section, all of the following definitions apply:

(1) ''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.

(2) ''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, or 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.

(3) ''Wages and salaries for services as a credentialed teacher'' includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(4) ''Total tax'' means the tax imposed under this part for the taxable year, before the application under Section 19007 of any payment of estimated tax or any installment thereof, less all credits allowed for the taxable year except for the following:

(A) The credit allowed under this section.

(B) The credit allowed under Section 17061 (relating to refunds under the Unemployment Insurance Code).

(C) The credit allowed under Section 19002 (relating to tax withholding).

(D) Any refundable credit that is allowed under this part.

SEC. 2. The amendments made to Section 17052.2 of the Revenue and Taxation Code by this act shall apply to taxable years beginning on or after January 1, 2000.

CHAPTER 604

An act to add Section 96.19 to the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 96.19 is added to the Revenue and Taxation Code, to read:

96.19. Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Riverside for each fiscal year to the 1999–2000 fiscal year,

inclusive, are deemed to be correct. However, for the 2000–01 fiscal year and each fiscal year thereafter, property tax apportionment factors applied in allocating property tax revenues in the County of Riverside shall be determined on the basis of property tax apportionment factors for prior fiscal years that have been fully corrected and adjusted, pursuant to the review and recommendation of the Controller, as would be required in the absence of the preceding sentence.

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 difficulties faced by the County of Riverside in attempting in good faith to properly allocate property tax revenues pursuant to ambiguous legal requirements, and the uniquely severe fiscal and public service consequences that would be faced by the County of Riverside in the absence of the relief provided by this act.

CHAPTER 605

An act to amend Sections 15339.2 and 15339.3 of, and to add Section 15339.8 to, the Government Code, relating to small business.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 15339.2 of the Government Code is amended to read:

15339.2. For purposes of this chapter, the following definitions apply:

(a) ''Incubator'' means an entity that facilitates the formation and growth of new small businesses to increase their probability of success through the provision or sharing of needed equipment, services, and facilities, including at least six of the following:

(1) Reception and meeting areas, secretarial services, accounting and bookkeeping services, and research libraries.

(2) Onsite financial, management, marketing, business development, and technical counseling.

(3) Office furniture rentals and flexible lease arrangements for business sites or for necessary equipment.

(4) Technology and computing assistance.

(5) Entry criteria and a graduation or exit policy.

(6) Provision of, or reasonable access to, debt or equity financing for client companies as a component of the incubator's programs.

(7) Regional collaboration, as appropriate, among facility-based incubators, virtual, e-commerce, technology incubation systems, and existing economic and business development programs, to meet the ongoing demands to support development of micro and small business enterprises for community economic development.

(8) A comprehensive entrepreneurial program of services offered by one or more facility-based or virtual incubation centers or business enterprise centers.

(b) ''Office'' means the Office of Small Business within the Trade and Commerce Agency.

SEC. 2. Section 15339.3 of the Government Code is amended to read:

15339.3. (a) The Office of Small Business shall award grants to California nonprofit corporations or public agencies pursuant to the application process described in this section.

(b) In developing the applications for grants, the office shall consult with incubators and other interested parties to ensure that the application is understandable and is disseminated as widely as possible.

(c) Grant funds shall be encumbered no later than one year from the date they become available to the agency for this purpose.

(d) The grants shall be awarded to the proposals scoring the highest points, based upon criteria that shall include the following:

(1) Priority shall be given to proposals that provide maximum debt or equity funding to small businesses that receive services pursuant to Section 15339.2 from a California incubator. The office shall give consideration to applicants that leverage the state funds with funds from other sources used to provide funding to the incubator businesses. The office shall give highest priority to proposals matching each state dollar requested with at least one dollar in private or nonstate public resources, either cash or in-kind.

(2) Consideration shall also be given to proposals that enable the formation and development of incubators.

(e) Grant awardees shall provide the office with suitable financial records to ensure their financial viability, and after receiving the grant, shall allow the office to audit the records of the expenditure of grant funds.

(f) The Office of Small Business shall evaluate the Business Incubation Program and present its findings to the Legislature on a biennial basis, commencing January 1, 2000. This evaluation shall include, but shall not be limited to, identifying the number of applicants for available grants, the number of incubators assisted through the program, the number of small businesses assisted, the graduation rate of

businesses out of incubators, and the number of jobs created and their mean wage level, and identifying the four-digit Standard Industrial Classification (SIC) code for businesses in incubators partially financed by the office. The evaluation shall be completed within the existing resources of the office. The office may consult with industry representatives, incubator associations, and the California Research Bureau while developing the biennial evaluation.

SEC. 3. Section 15339.8 is added to the Government Code, to read:

15339.8. Programs and services provided pursuant to this article shall be flexible and responsive to the needs of small businesses identified through the regional planning process described in this article. Services shall be demand-driven, and delivery structures shall be in accordance with best business practices, performance-oriented, and cost-effective, and contribute to regional and statewide economy growth and competitiveness.

CHAPTER 606

An act to amend Sections 3695.4, 3695.5, 3700, 3791.4, 3793.1, 3795, and 3795.5 of, and to repeal Sections 3793.5, 3793.6, 3794.2, 3807.3, and 3807.5 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 3695.4 of the Revenue and Taxation Code is amended to read:

3695.4. In addition to the provisions in Section 3695 relative to objections to sales, the state or city or any taxing agency or revenue district may file with the county tax collector written objection to the sale of, along with an application to purchase in accordance with Chapter 8 (commencing with Section 3771), any property that is or may be needed for public use. The written objection shall specify the description of the property needed, whether the fee or an easement is required, and the public purpose to which the property is intended to be devoted.

The objection and application shall be filed with the tax collector before the date of the first publication of the notice of intended sale pursuant to Sections 3702 and 3703. If the state, a city, taxing agency, or revenue district files an objection and application in compliance with

this section, the tax collector may not proceed with the sale of the subject property.

SEC. 2. Section 3695.5 of the Revenue and Taxation Code is amended to read:

3695.5. In addition to the provisions of Sections 3695 and 3695.4 relative to objections to sales, any nonprofit organization may file with the county tax collector written objection to the sale for taxes of, and a written application to purchase in accordance with Chapter 8 (commencing with Section 3771), any residential or vacant real property that the nonprofit organization states in writing that it will:

(a) In the case of residential real property, rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.

(b) In the case of vacant real property, construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use, including those uses referred to in subdivision (a).

The objection and application shall be filed with the tax collector before the date of the first publication or posting of the notice of intended sale pursuant to Sections 3702 and 3703. If the nonprofit organization files an objection and application in compliance with this section and with any conditions of sale established pursuant to Section 3795.5, the tax collector may not proceed with the sale of the property.

The terms ''nonprofit organization,'' ''low-income persons'' and ''rehabilitation'' shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

SEC. 3. Section 3700 of the Revenue and Taxation Code is amended to read:

3700. Upon providing notice to the board of supervisors as required by Section 3698, the tax collector shall forward one copy to the clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property and may forward one copy to each nonprofit organization that has submitted, within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year, a written request to the tax collector for notification. The copy or copies shall be mailed or delivered at least 30 days before the first publication or posting of the notice of intended sale. However, where the tax collector has on file a consent from each taxing agency, the tax collector may proceed to publish or post the notice of sale.

SEC. 4. Section 3791.4 of the Revenue and Taxation Code is amended to read:

3791.4. (a) When residential or vacant property has been tax defaulted for five years or more, or three years or more after the property

has become tax-defaulted and is subject to a nuisance abatement lien, that property may, with the approval of either the board of supervisors of the county in which it is located or that board's designee, be purchased pursuant to this chapter by a nonprofit organization, provided that:

(1) In the case of residential property, the nonprofit organization shall rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.

(2) In the case of vacant property, the nonprofit organization shall construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use.

(b) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.

SEC. 5. Section 3793.1 of the Revenue and Taxation Code is amended to read:

3793.1. (a) The sales price of any property sold under this article shall include, at a minimum, the amounts of all of the following:

(1) All defaulted taxes and assessments, and all associated penalties and costs.

(2) Redemption penalties and fees incurred through the month of the sale.

(3) All costs of the sale.

(b) If the property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors or that board's designee, offer that property or those interests at a minimum price that the tax collector deems appropriate.

(c) The board of supervisors, or its designee, may permit a nonprofit organization to purchase property or property interests by way of installment payments.

SEC. 6. Section 3793.5 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 3793.6 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 3794.2 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 3795 of the Revenue and Taxation Code is amended to read:

3795. The agreement shall be submitted to the Controller. If he or she does not approve the agreement, he or she shall return the agreement to each party with a statement of his or her objections to it, and thereafter a new or modified agreement may be made. If the Controller approves

the agreement, he or she shall sign the executed copy, return the signed agreement to the tax collector, and keep a copy on file in his or her office.

SEC. 10. Section 3795.5 of the Revenue and Taxation Code is amended to read:

3795.5. In the case of an agreement involving a nonprofit organization, the board of supervisors may establish conditions of sale, including reporting, to assure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons. These conditions shall include, but are not limited to, all of the following:

(a) Requiring a certification of consistency with a consolidated plan approved by the Department of Housing and Community Development.

(b) Requiring compliance with a jurisdiction's consolidated plan or a community development plan.

(c) Articles of incorporation filed with the Secretary of State, stating that the organization is incorporated for the purposes specified in subdivision (b) of Section 3772.5.

SEC. 11. Section 3807.3 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 3807.5 of the Revenue and Taxation Code is repealed.

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 are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 607

An act to amend Section 401.10 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. It is the intent of the Legislature to do both of the following:

(a) Eliminate the requirement that the rate of interest accruing on overpayments of sales and use tax be based on the rate of 13-week treasury bills issued by the federal government.

(b) Require, subject to certain modifications, that the rate of interest accruing on both overpayments and underpayments of sales and use tax be determined in accordance with the rate of interest determined under Section 6621(a) (2) of the Internal Revenue Code for underpayments of federal taxes.

SEC. 2. Section 401.10 of the Revenue and Taxation Code is amended to read:

401.10. (a) Notwithstanding any other provision of law relating to the determination of the values upon which property taxes are based, values for each tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, for intercounty pipeline rights-of-way on publicly or privately owned property, including those rights-of-way that are the subject of a change in ownership, new construction, or any other reappraisable event during the period from March 1, 1975, to June 30, 2011, inclusive, shall be rebuttably presumed to be at full cash value for that year, if all of the following conditions are met:

(1) (A) The full cash value is determined to equal a 1975–76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975–76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars ($20,000) per mile for a high density property.

(ii) Twelve thousand dollars ($12,000) per mile for a transitional density property.

(iii) Nine thousand dollars ($9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) ''High density'' means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) ''Transitional density'' means Category 2 (urban) as established by the State Board of Equalization.

(iii) ''Low density'' means Category 3 (valley-agricultural), Category 4 (grazing), and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984–85 tax year or, if density classifications were not so assigned to the property for the 1984–85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the

right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2), shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines. For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline in the right-of-way in accordance with paragraphs (1) and (2).

(B) If the State Board of Equalization has determined that an intercounty pipeline, located within a multiple pipeline right-of-way previously valued in accordance with subparagraph (A), has been abandoned as a result of physical removal or blockage, the assessed value of the right-of-way attributable to the last pipeline enrolled in accordance with subparagraph (A) shall be reduced by not less that 75 percent of that increase in assessed value that resulted from the application of subparagraph (A).

(4) If all pipelines of a taxpayer located within the same pipeline right-of-way, previously valued in accordance with this section, are determined by the State Board of Equalization to have been abandoned as the result of physical removal or blockage, the assessed value of that right-of-way to that taxpayer shall be determined to be no more than 25 percent of the assessed value otherwise determined for the right-of-way for a single pipeline of that taxpayer pursuant to paragraphs (1) and (2).

(b) If the assessor assigns values for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer's right to assert any challenge to the right to assess that property, whether in an administrative or judicial proceeding, shall be deemed to have been raised and resolved for that tax year and the values determined in accordance with that methodology shall be rebuttably presumed to be correct. If the assessor assigns values for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in accordance with the methodology specified in subdivision (a), any pending taxpayer lawsuit that challenges the right to assess the property shall be dismissed by the taxpayer with prejudice as it applies to intercounty pipeline rights-of-way.

(c) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor assigns values for rights-of-way for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer may not challenge the right to assess that property and the values determined in accordance with that methodology shall be rebuttably presumed to be correct for that property for that tax year.

(d) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor does not assign values for rights-of-way for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, at the 1975–76 base year values specified in subdivision (a), any assessed value that is determined on the basis of valuation standards that differ, in whole or in part, from those valuation standards set forth in subdivision (a) shall not benefit from any presumption of correctness, and the taxpayer may challenge the right to assess that property or the values for that property for that tax year. As used herein, a challenge to the right to assess shall include any assessment appeal, claim for refund, or lawsuit asserting any right, remedy, or cause of action relating to or arising from, but not limited to, the following or similar contentions:

(1) That the value of the right-of-way is included in the value of the underlying fee or railroad right-of-way.

(2) That assessment of the value of the right-of-way to the owner of the pipeline would result in double assessment.

(3) That the value of the right-of-way may not be assessed to the owner of the pipeline separately from the assessment of the value of the underlying fee.

(e) Notwithstanding any other provision of law, during a four-year period commencing on the effective date of this section, the assessor may issue an escape assessment in accordance with the specific valuation standards set forth in subdivision (a) for the following taxpayers and tax years:

(1) Any intercounty pipeline right-of-way taxpayer who was a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for the tax years 1984–85 to 1996–97, inclusive.

(2) Any intercounty pipeline right-of-way taxpayer who was not a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for the tax years 1989–90 to 1996–97, inclusive.

(f) Any escape assessment levied under subdivision (e) shall not be subject to penalties or interest under the provisions of Section 532. If payment of any taxes due under this section is made within 45 days of demand by the tax collector for payment, the county shall not impose any late payment penalty or interest. Taxes not paid within 45 days of demand by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(g) For purposes of this section, ‘‘intercounty pipeline right-of-way’’ means, except as otherwise provided in this subdivision, any interest in publicly or privately owned real property through which or over which

an intercounty pipeline is placed. However, ''intercounty pipeline right-of-way'' does not include any parcel or facility that the State Board of Equalization originally separately assessed using a valuation method other than the multiplication of pipeline length within a subject property by a unit value determined in accordance with the density category of that subject property.

(h) This section shall remain in effect only until January 1, 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.

CHAPTER 608

An act to add Chapter 7.2 (commencing with Section 11786) to Part 1 of Division 3 of Title 2 of the Government Code, relating to information technology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to provide for the awarding of grants for qualifying information technology innovation projects from funds appropriated for that purpose in the annual Budget Act.

SEC. 2. Chapter 7.2 (commencing with Section 11786) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 7.2. INFORMATION TECHNOLOGY INNOVATION GRANTS PROGRAM

11786. (a) The Information Technology Innovation Council is hereby established in state government.

(b) The council shall be composed of the following members:

(1) Two representatives from the Governor's office.

(2) Two agency secretaries, appointed by the Governor.

(3) The chief information officer of the state.

(4) The Director of Finance.

(5) A Member of the Assembly, designated by the Speaker of the Assembly.

(6) A Member of the Senate, designated by the Senate Committee on Rules.

(c) The council shall meet at least quarterly.

(d) The Governor shall appoint a member of the council as its chairperson.

(e) Council members who are Members of the Legislature shall perform the duties of council members to the extent that those duties are not inconsistent with their duties as Members of the Legislature.

11786.1. (a) (1) No later than three months from the date of the enactment of the 2000–01 Budget Act, the Department of Finance and the Department of Information Technology, jointly, shall promulgate guidelines for grant applications under this chapter, and create a standard application form, to be distributed to state agencies.

(2) The departments shall jointly review and revise, as necessary, the guidelines and application form no later than September 1 of each subsequent year.

(b) (1) A state agency may submit to the Department of Information Technology an application for funding for a proposed information technology innovation project, which shall include all of the following:

(A) A description of the proposed project.

(B) A detailed justification for the proposed project.

(C) A long-range plan for the use of the proposed new information technology innovation.

(D) A detailed explanation of how, if applicable, the proposed new information technology will improve the delivery of governmental services to the public.

(E) A detailed explanation of how the proposed information technology will be integrated with existing program service delivery methodologies.

(F) The estimated costs for development and implementation of the project and anticipated ongoing costs beyond the grant period.

(G) An implementation schedule for a funded project.

(H) A description of what efforts, if any, were made to share the cost of the project with other departments that use similar information technology or have similar program needs.

(I) A description of any business process reengineering efforts planned or conducted in support of the project.

(2) The Department of Information Technology shall review applications submitted pursuant to this section to confirm that each is in the form required by, and complies with, the guidelines promulgated pursuant to subdivision (a), and shall forward them to the Information Technology Innovation Council.

(c) For purposes of this chapter, an ''information technology innovation project'' or ''project'' means an information technology project that satisfies one or more of the following criteria:

(1) Maximizes customer satisfaction.

(2) Encourages or increases access to services.

(3) Has interagency or statewide participation.

(4) Demonstrates breakthrough improvements in business efficiency.

(5) Results in information technology capabilities that are transferable to multiple agencies.

(6) Provides a demonstration of a technology's capabilities within the context of state programs.

(7) Combines multiple technologies in ways that improve state functions.

11786.2. (a) The Information Technology Innovation Council shall evaluate competing project applications based on the guidelines established pursuant to Section 13161, and shall make recommendations to the Department of Finance and the Department of Information Technology based on those evaluations. The council may rank its recommendations in order of priority.

(b) The Department of Finance shall award grants from funds appropriated in the annual Budget Act for the purposes of this chapter, according to the recommendations made pursuant to subdivision (a). The grants shall be awarded only for the projects recommended by the council and only in the amounts recommended by the council.

(c) A grant made pursuant to this section shall be in an amount that ensures implementation of a project for a maximum of three years.

(d) Funding for a proposed project shall be limited to the amount of the grant provided pursuant to this section. Any additional funding necessary for expanding the scope of a project shall be requested as part of the implementing agency's annual budget development process.

11786.3. (a) No grant approved under this chapter may be funded sooner than 30 days after written notice is provided by the Department of Finance to the Chair of the Senate Committee on Budget and Fiscal Review, the Chair of the Assembly Committee on Budget, the Chair of the Joint Legislative Budget Committee, the Chair of the Senate Committee on Appropriations, the Chair of the Assembly Committee on Appropriations, and the chairs of the relevant policy committees in the Senate and the Assembly.

(b) The notification provided pursuant to this section shall include all of the following:

(1) A brief description of the grant proposal.

(2) The estimated cost of the proposed project.

(3) A description of improved service delivery or other project goals that are estimated to result from the proposed project.

(4) An implementation schedule for the proposed project.

11786.4. (a) The Department of Finance shall provide funding for an outside vendor to conduct an independent evaluation of projects implemented pursuant to this chapter, and report these findings at least

annually to the Chairs of the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Joint Legislative Budget Committee, the Senate Committee on Appropriations, and the Assembly Committee on Appropriations, and the chairs of the relevant policy committees in the Senate and the Assembly.

(b) The Department of Finance shall provide quarterly reports to the chairs of the legislative committees described in subdivision (a), listing the allocations made from the Information Technology Innovation Fund, and identifying the department, the project, and the amount for each allocation.

(c) The Department of Information Technology, in cooperation with the Department of Finance, shall provide, on or before January 1 of each year, to the chairs of the legislative committees described in subdivision (a), a report summarizing the results of the funded projects. The report shall describe all of the following for each funded project:

(1) The project's purpose.

(2) The project's expected and actual accomplishments.

(3) The actual costs of the project.

(4) The results of any independent review of the project.

(5) The future next steps, if any, for the project.

11786.5. This chapter shall not apply to the University of California, the California State University, the State Compensation Insurance Fund, community college districts, or the judicial or legislative branches of state government.

11786.6. Funding for this chapter shall be subject to appropriations made for that purpose in the annual Budget Act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that grant funds appropriated for the purposes of this act may be allocated at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 609

An act to add Section 32177.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 32177.5 is added to the Revenue and Taxation Code, to read:

32177.5. No tax shall be imposed upon the sale of distilled spirits by brandy manufacturers, distilled spirits manufacturers, rectifiers, importers, and distilled spirits wholesalers to the following listed instrumentalities of the armed forces of the United States organized under Army, Air Force, Navy, Marine Corps, or Coast Guard regulations and located upon territory within the geographical boundaries of the state:

(a) Army, Air Force, Navy, Marine Corps, and Coast Guard exchanges.

(b) Officers', noncommissioned officers', and enlisted men's clubs or messes.

If any manufacturer, rectifier, importer or wholesaler has paid the tax on alcoholic beverages, except beer and wine, thereafter sold to an instrumentality of the Armed Forces so located, the taxpayer may claim and shall be allowed credit with respect to the tax so paid in any report filed or assessment paid under this part.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first month commencing more than 90 days after the effective date of this act.

CHAPTER 610

An act to amend Sections 33214, 33215, 33216, and 33353.2 of, and to add Section 33214.5 to, the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 33214 of the Health and Safety Code is amended to read:

33214. (a) Notwithstanding Section 33120, the territorial jurisdiction of an agency in the county shall include all of the unincorporated territory that was included in a project area selected pursuant to Section 33322 or 34004 even if that territory is subsequently

annexed to a city or included within the boundaries of a new city, unless territorial jurisdiction over the project area is transferred from a county to a city pursuant to Section 33215 , 33216, or 33217.

(b) Notwithstanding Section 33120, the territorial jurisdiction of an agency in a city shall include all of the territory within the limits of the city that was included in a project area selected pursuant to Section 33322 or 34004 even if that territory is subsequently annexed to another city or included within the boundaries of a new city, unless territorial jurisdiction over the project area is transferred to the other city pursuant to Section 33215 , 33216, or 33217.

SEC. 2. Section 33214.5 is added to the Health and Safety Code, to read:

33214.5. As used in Sections 33215 and 33216:

(a) ''Creating agency'' means the community redevelopment agency that created the project area that is to be transferred pursuant to Section 33215 or 33216.

(b) ''Receiving agency'' means the community redevelopment agency that will acquire jurisdiction over a project area pursuant to Section 33215 or 33216.

SEC. 3. Section 33215 of the Health and Safety Code is amended to read:

33215. (a) If all of the territory included within a project area, including any noncontiguous territory within the project area, selected pursuant to Section 33322 or 34004 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the creating agency over all of the territory in that project area may be transferred from the creating agency to a receiving agency pursuant to this section.

(b) The legislative body of the community of the receiving agency, in which the territory described in subdivision (a) is located, may unilaterally transfer the territorial jurisdiction described in subdivision (a) if that legislative body agrees to reimburse the community of the creating agency for all costs incurred by the community of the creating agency in conducting the transfer and adopts, or has adopted, both of the following ordinances:

(1) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(2) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the legislative body of the creating agency or an ordinance adopting that redevelopment plan, with amendments. However, no amendment to a redevelopment plan may be adopted if the amendment would violate any agreement entered into by the creating agency or its legislative body, as determined by that

legislative body, prior to the effective date of the transfer of territorial jurisdiction, as determined pursuant to subdivision (c).

(c) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year that begins following the effective date of the later enacted of the ordinances adopted pursuant to subdivision (b).

(d) The transfer of territorial jurisdiction shall have all of the following effects on and after the effective date of the transfer of territorial jurisdiction, as determined pursuant to subdivision (c):

(1) The receiving agency and its legislative body shall have all of the rights, powers, and responsibilities provided by this part with respect to the project area and the redevelopment plan for that project area.

(2) The debts and any other obligations of the creating agency or its legislative body in connection with the project area or the redevelopment plan for that project area shall be assumed by the receiving agency.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for the project area for which territorial jurisdiction is transferred from the creating agency to the receiving agency pursuant to this section shall be considered to have been adopted by the legislative body of the receiving agency on the date the redevelopment plan was originally adopted by the legislative body of the creating agency.

(e) The creating agency, the receiving agency, and their respective legislative bodies may enter into any agreements which those entities mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction provided for by this section.

SEC. 4. Section 33216 of the Health and Safety Code is amended to read:

33216. (a) If all, or a substantial portion, of the territory included within a project area selected pursuant to Section 33322 or 34004 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the creating agency over all, or a substantial portion, of the territory in that project area may be transferred from the creating agency to the receiving agency pursuant to this section. If all, or a substantial portion, of the noncontiguous territory of a project area of a creating agency is subsequently annexed to a city or included within the boundaries of a new city, the jurisdiction of the creating agency over all, or a substantial portion, of the noncontiguous territory may be transferred to the receiving agency pursuant to this section.

(b) The transfer of territorial jurisdiction described in subdivision (a) is not effective unless all of the following occur:

(1) The creating agency and the receiving agency enter into the agreement described in subdivision (c), and their respective legislative bodies both adopt a resolution approving that agreement.

(2) The legislative body of the receiving agency adopts, or has adopted, both of the following ordinances:

(A) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(B) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the legislative body of the creating agency.

(c) The agreement required to be entered into between the creating agency and the receiving agency pursuant to paragraph (1) of subdivision (b) shall contain all of the provisions described in paragraphs (1), (2), (3), and (4), and may contain the provisions described in paragraphs (5) and (6):

(1) A provision specifying that all of the territory included within the project area is transferred from the creating agency to the receiving agency, or a provision specifying the portions of the project area over which each agency will have territorial jurisdiction.

(2) (A) If all of the territory included within the project area is transferred from the creating agency to the receiving agency, a provision for the allocation of all of the taxes payable from the project area pursuant to subdivision (b) of Section 33670 to the receiving agency.

(B) If a substantial portion of the territory included within the project area is transferred from the creating agency to the receiving agency, a provision for the allocation of taxes payable from the project area pursuant to subdivision (b) of Section 33670 between the receiving agency and the creating agency. That allocation of taxes shall be reasonably related to the costs that the community of the creating agency and the community of the receiving agency expect to incur in carrying out the redevelopment plan and the outstanding indebtedness that the creating agency has incurred in carrying out the redevelopment plan. That indebtedness shall include repayment of expenditures to, or on behalf of, the redevelopment project area from other resources or borrowing of the creating agency. That allocation of taxes may differ from the allocation that would have been made if the portion of the project area under the territorial jurisdiction of the creating agency and the portion of the project area under the territorial jurisdiction of the receiving agency had been separate project areas at the time of adoption of the redevelopment plan by the legislative body of the creating agency.

(3) A requirement that all taxes payable from the project area pursuant to subdivision (b) of Section 33670 that are allocated to the receiving agency, as required by subparagraph (B) of paragraph (2), shall be available if necessary to pay any indebtedness incurred by the creating agency prior to the effective date of the transfer of jurisdiction in connection with the project area and the redevelopment plan if that indebtedness was secured by the taxes payable from the project area pursuant to subdivision (b) of Section 33670.

(4) If a substantial portion of the territory included within the project area is transferred from the creating agency to the receiving agency, a requirement that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the creating agency shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the legislative body of the receiving agency, and that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the receiving agency shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the legislative body of the creating agency.

(5) If a substantial portion of the territory included within the project area is transferred from the creating agency to the receiving agency, a provision permitting the creating agency to undertake activities to implement the redevelopment plan in portions of the project area under the territorial jurisdiction of the receiving agency or for the receiving agency to undertake activities to implement the redevelopment plan in portions of the project area under the territorial jurisdiction of the creating agency.

(6) Any other terms and conditions that the creating agency, the receiving agency, or their respective legislative bodies mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction over all, or a substantial portion, of the project area and the implementation of the redevelopment plan.

(d) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year that begins following the effective date of the resolution adopted pursuant to paragraph (1) of subdivision (b), or the effective date of the later enacted of the ordinances adopted pursuant to paragraph (2) of subdivision (b), whichever date is later.

(e) On and after the effective date of the transfer of territorial jurisdiction:

(1) Except as otherwise provided by the agreement entered into pursuant to paragraph (1) of subdivision (b), the receiving agency and its legislative body shall have all of the rights, powers, and responsibilities provided by this part with respect to all, or the portion, of the project area for which the territorial jurisdiction has been transferred to the receiving agency and with respect to all, or the portion, of the redevelopment plan for all, or that portion, of the project area.

(2) The debts and any other obligations of the creating agency or its legislative body in connection with the project area, or a substantial portion of the project area transferred to the receiving agency, as the case may be, or the redevelopment plan for that project area, or portion of the project area, shall be assumed by the receiving agency.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for all, or a substantial portion, of the project area for which territorial jurisdiction is transferred from the creating agency to the receiving agency pursuant to this section shall be considered to have been adopted by the legislative body of the receiving agency on the date the redevelopment plan was originally adopted by the legislative body of the creating agency.

SEC. 5. Section 33353.2 of the Health and Safety Code is amended to read:

33353.2. ''Affected taxing entity'' means any governmental taxing agency that levies a property tax on all or any portion of the property located in the adopted project area in the fiscal year prior to the fiscal year in which the report prepared pursuant to Section 33328 is issued or in any fiscal year after the date the redevelopment plan is adopted. To the extent that a new governmental taxing agency wholly or partially replaces the geographic jurisdiction of a preexisting governmental taxing agency, the new taxing agency shall be an ''affected taxing entity'' and the preexisting taxing agency shall no longer be an ''affected taxing entity.'

SEC. 6. The Legislature hereby finds and declares that the amendment of subdivision (b) of Section 33215 of the Health and Safety Code made by this act that changes the phrase ''initiate the transfer of'' to ''unilaterally transfer the'' does not constitute a change in, but is declaratory of, existing law.

CHAPTER 611

An act to amend Sections 97.2 and 97.3 of, and to add Section 100.4 to, the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353

Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for ''museums'' pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision,

''revenues that are pledged to debt service'' include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose

governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state

projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to

paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this clause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code. If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of this clause, the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred

thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 2. Section 97.3 of the Revenue and Taxation Code is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the ''May Revision of the 1993–94 Governor's Budget'' shall be determined by reference to the document entitled ''Estimated County Property Tax Transfers Under Governor's May Revision Proposal,'' published by the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to

subparagraph (B) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity'' means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1, and a county's Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this

paragraph, "qualifying school entity'' means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1, and a county's Educational Revenue Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to

subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars ($104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a ''qualifying community services district'' means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current

amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of ''Fire Protection,'' that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase ''amount of revenue allocated to that special district'' means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices

of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education, that is not an excess tax school entity until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3),

the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this clause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code. If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of this clause, the auditor shall allocate those remaining revenues to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the

department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 3. Section 100.4 is added to the Revenue and Taxation Code, to read:

100.4. Notwithstanding any other provision of law, the allocations and apportionments made in a County of the Eighteenth Class of revenues generated by Sections 75 to 75.80, inclusive, for fiscal years to the 1999–2000 fiscal year, inclusive, are deemed to be correct.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the specific good faith reliance of tax officials in the County

of Marin upon previous administrative interpretations and accepted practices that have subsequently been reexamined and modified.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

CHAPTER 612

An act to amend Section 14254.5 of, to add Chapter 10 (commencing with Section 16000) and Chapter 11 (commencing with Section 16500) to Division 5 of, and to repeal Section 14157 of, the Financial Code, relating to credit unions.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 14157 of the Financial Code is repealed.

SEC. 2. Section 14254.5 of the Financial Code is amended to read:

14254.5. (a) Except as provided in subdivisions (b) and (c), within 10 business days of opening, closing, or relocating a branch office, a credit union shall notify the commissioner in writing of the action, including the street and mailing addresses of the branch office.

(b) A credit union shall not establish a branch office in another state of the United States without the approval of the governmental authority with jurisdiction to license or charter credit unions in that state. ''State'' has the meaning set forth in Section 146.7.

(c) A credit union shall not establish a branch office in a foreign nation without the prior written approval of the commissioner. ''Foreign nation'' has the meaning set forth in Section 139.3.

SEC. 3. Chapter 10 (commencing with Section 16000) is added to Division 5 of the Financial Code, to read:

CHAPTER 10. FOREIGN (OTHER STATE) CREDIT UNIONS

Article 1. General Provisions

16000. This chapter may be cited as the ''Foreign (Other State) Credit Union Law.''

16001. In this chapter:

(a) ''Branch business'' means the business of issuing share accounts, certificates for funds, and share drafts, receiving deposits, paying checks, making loans and other obligations, and other activities that the commissioner may specify by order or regulation.

(b) ''California branch office,'' when used with respect to a foreign (other state) credit union, means an office in this state at which the foreign (other state) credit union engages in branch business.

(c) (1) ''California facility,'' when used with respect to a foreign (other state) credit union, means an office in this state at which the foreign (other state) credit union engages in business other than branch business.

(2) In the case of an employer-supported foreign (other state) credit union, a ''California facility'' does not include a table, counter, or booth on the premises of the employer's place of business at which a volunteer of the foreign (other state) credit union provides information or services to members but does not engage in branch business.

(d) ''Foreign nation'' means any nation other than the United States, including, without limitation, any subdivision, territory, trust territory, dependency, colony, or possession of any nation other than the United States.

(e) ''Foreign (other nation) credit union'' means any credit union or similar institution that is organized under the laws of a foreign nation.

(f) ''Foreign (other state) credit union'' means a credit union that is organized under the laws of any state of the United States other than this state.

(g) ''Home state,'' when used with respect to a foreign (other state) credit union, means the state of the United States under which the foreign (other state) credit union is organized.

(h) ''Home state regulator,'' when used with respect to a foreign (other state) credit union, means the state regulatory agency in the home state of the foreign (other state) credit union which has primary regulatory authority over the foreign (other state) credit union.

(i) ''State of the United States'' means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

16002. Nothing in this chapter shall be deemed to authorize a foreign (other nation) credit union to transact business in this state.

16003. No foreign (other state) credit union may establish or maintain a California branch office or California facility unless it is qualified to transact intrastate business under Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code, except as provided in Section 8910 of the Corporations Code.

16004. No foreign (other state) credit union may establish a California branch office or California facility unless its deposit or share accounts are insured by the National Credit Union Administration or other insurer that is not unsatisfactory to the commissioner.

16005. Each application filed with the commissioner under this chapter or under any regulation or order issued under this chapter shall be in the form, shall contain the information, shall be signed in the manner, and shall (if the commissioner requires by regulation or order) be verified in the manner that the commissioner may by regulation or order require.

16006. Fees shall be paid to and collected by the commissioner as follows:

(a) The fee for an application by a foreign (other state) credit union that is not licensed to transact business in this state for approval to establish a branch office is one thousand dollars ($1,000).

(b) The fee for an application by a foreign (other state) credit union that is licensed to transact business in this state for approval to establish a California branch office is five hundred dollars ($500).

(c) The fee for issuing a license to establish and maintain a California branch office or California facility is twenty-five dollars ($25).

(d) Each foreign (other state) credit union that on June 1 of any year maintains one or more California branch offices or California facilities shall pay, on or before the following July 1, a fee of two hundred fifty dollars ($250) per California branch office and one hundred dollars ($100) per California facility. However, the maximum fee shall be not more than one thousand dollars ($1,000).

(e) If the commissioner makes an examination in connection with a pending application, the foreign (other state) credit union making the application shall pay a fee for the examination at the rate of seventy-five dollars ($75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(f) If the commissioner makes an examination of a foreign (other state) credit union that maintains a California branch office or California facility, the foreign (other state) credit union shall pay a fee for the examination at the rate of seventy-five dollars ($75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

16007. (a) Not less than 30 days before a foreign (other state) credit union establishes a California branch office or a California facility, the foreign (other state) credit union shall file with the commissioner, in the

form that the commissioner may by regulation or order require, an appointment irrevocably appointing the commissioner and the commissioner's successor from time to time in office to be the foreign (other state) credit union's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other state) credit union or any of its successors that arises out of the activities of the California branch office or California facility after the appointment has been filed, with the same force and validity as if served personally on the foreign (other state) credit union or its successors, as the case may be.

(b) Any foreign (other state) credit union that maintains a California branch office or California facility that has not filed with the commissioner an appointment pursuant to subdivision (a) is deemed by the maintenance of the branch office or facility to have appointed the commissioner as its attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other state) credit union or any of its successors that arises out of the activities of the California branch office or California facility, with the same force and validity as if served personally on the credit union or its successor, as the case may be.

(c) Service may be made on a foreign (other state) credit union that has appointed or is deemed to have appointed the commissioner as its attorney for service of process by leaving a copy of the process at any office of the commissioner. However, the service is not effective unless (1) the party making the service, who may be the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the foreign (other state) credit union served at the last address on file with the commissioner for any of the foreign (other state) credit union's offices in this state or at its head office, and (2) an affidavit of compliance with this subdivision by the party making the service is filed in the case on or before the return date if any, or within any further time that the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

16008. In administering the provisions of this chapter, the commissioner may share information with federal and home state regulators of foreign (other state) credit unions.

16009. A foreign (other state) credit union that is licensed to establish an office shall post at a conspicuous place at the office a notice to the public which states the name of the foreign (other state) credit union, the type of office it is, and the state of the United States under whose laws it was organized or chartered.

16010. No license shall be transferable or assignable.

16011. Whenever a foreign (other state) credit union is licensed to establish more than one office, it shall designate one of its offices as its primary office.

16012. Each foreign (other state) credit union that is licensed to establish an office shall conduct all of the business of the office in a single building or in adjoining buildings. However, with prior to notice to the commissioner, the foreign (other state) credit union may conduct part of the business of the office elsewhere in the same vicinity.

16013. Whenever any provision of this chapter or of any regulation or order issued under this chapter which is applicable to or with respect to a foreign (other state) credit union that maintains a California branch office or California facility is inconsistent with any provision of any other chapter of this division, the provision of the other chapter applies, and the latter provision does not apply.

Article 2. Establishment of a California Branch Office or California Facility

16020. (a) Except for the activities described in paragraph (2) of subdivision (c) of Section 16001, no foreign (other state) credit union shall transact business in this state except at a branch office or facility that it is licensed to maintain and at which it is permitted by this chapter to transact the business transacted.

(b) Subdivision (a) shall not be deemed to prohibit any of the following:

(1) Any foreign (other state) credit union from carrying on the activities described in subdivision (d) of Section 191 of the Corporations Code.

(2) The advertising or solicitation of shares or deposits in this state by a foreign (other state) credit union made through the media of the mail, radio, television, magazines, newspapers, the Internet, or similar media, provided that shares or deposits are not accepted or received in this state.

(3) The acceptance of loan applications through agents in this state, provided the loan applications are approved or rejected, and the loans are funded, outside of this state.

(c) For the purposes of subdivision (a), no foreign (other state) credit union shall be deemed to be transacting business in this state merely because a majority-owned subsidiary transacts business in this state.

16021. (a) No foreign (other state) credit union shall establish or maintain a California branch office unless the commissioner shall have first approved its establishment and issued a license authorizing the foreign (other state) credit union to maintain the California branch office.

(b) Notwithstanding subdivision (a), this article does not apply to any branch office or other office in this state of a foreign (other state) credit union that was established prior to January 1, 2001, in compliance with existing law.

16022. (a) If the commissioner finds all of the following with respect to an application by a foreign (other state) credit union for approval to establish a California branch office, the commissioner shall approve the application:

(1) That the foreign (other state) credit union, the directors and officers of the foreign (other state) credit union, and the proposed management of the branch office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other state) credit union are satisfactory.

(3) That the management of the foreign (other state) credit union and the proposed management of the branch office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the branch office, the foreign (other state) credit union will operate the branch office in a safe and sound manner and in compliance with all applicable laws, regulations, and orders.

(5) That the foreign (other state) credit union's plan to establish and to maintain the branch office affords reasonable promise of successful operation.

(6) That the foreign (other state) credit union's establishment and maintenance of the branch office will promote the convenience and advantage of its members, and is necessary or convenient to meet the needs of the foreign (other state) credit union's members.

(7) Not more than 50 percent of the members of the foreign (other state) credit union are or will be residents of this state.

If the commissioner finds otherwise, the commissioner shall deny the application.

(b) Whenever an application by a foreign (other state) credit union for approval to establish a California branch office has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other state) credit union to maintain the California branch office have been fulfilled, the commissioner shall issue the license.

16023. The approval of an application for approval to establish a California branch office shall be revoked by operation of law if the applicant foreign (other state) credit union does not establish and maintain the California branch office within one year after the date of the approval, unless prior to the expiration of the one-year period the commissioner extends the time within which the foreign (other state) credit union may establish the California branch office.

16024. (a) Within 30 days of establishing a California facility, a foreign (other state) credit union shall notify the commissioner in writing of its intent to establish in a California facility. The notice shall identify the proposed location of the facility, describe its proposed activities, and contain any other information which the commissioner may by regulation or order specify.

(b) A foreign (other state) credit union shall not commence business at a proposed facility without a license having been issued by the commissioner.

Article 5. Relocation or Discontinuance of California Branch Office or California Facility

16075. Within 10 days of relocating a California branch office or California facility, a foreign (other state) credit union shall file a report with the commissioner which contains the information specified by the commissioner by regulation or order. The foreign (other state) credit union shall not conduct business at the new location of the California branch office or California facility without a license issued by the commissioner for the new location.

16076. Not less than 30 days before a foreign (other state) credit union discontinues a California branch office or California facility, it shall file a report with the commissioner which contains the information specified by the commissioner by regulation or order.

16077. Promptly after a foreign (other state) credit union relocates or discontinues a California branch office or California facility pursuant to this article, the foreign (other state) credit union shall surrender to the commissioner the license which authorized the foreign (other state) credit union to maintain the California branch office or California facility at the old or discontinued site.

Article 6. Conduct of Credit Union Business

16100. (a) A foreign (other state) credit union that has a license to establish and maintain an office in this state may engage in activities at such office as may be authorized under the laws of its home state and the laws of this state that are applicable to credit unions.

(b) Nothing in subdivision (a) authorizes a foreign (other state) credit union to engage in any activity at a California branch office or California facility that it is not authorized to transact or is prohibited from transacting under the law of its home state or that credit unions organized under the laws of this state are not authorized to transact or are prohibited from transacting.

16101. (a) The following provisions of this division apply to a foreign (other state) credit union that maintains a California branch office or California facility with respect to its business in this state as if the foreign (other state) credit union were a credit union organized under the laws of this state:

(1) Section 14203.
(2) Section 14204.
(3) Section 14208.
(4) Section 14210.
(5) Section 14256.
(6) Section 14409.
(7) Section 14409.2.
(8) Section 14602.
(9) Section 14652.5.
(10) Section 14655, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other state) credit union.
(11) Section 14656, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other state) credit union.
(12) Article 8 (commencing with Section 14750) of Chapter 4.
(13) Article 1 (commencing with Section 14850) of Chapter 6.
(14) Article 1 (commencing with Section 14950) of Chapter 7.
(15) Article 2 (commencing with Section 15001) of Chapter 7.
(16) Article 3 (commencing with Section 15050) of Chapter 7, to the extent loans of the type described in that article are carried on the books of a branch office of a foreign (other state) credit union.
(17) Section 15102.

(b) The laws of this state that are applicable to the activities, operations, and transactions of credit unions organized under the laws of this state, other than the laws in this division, similarly shall apply to the activities, operations, and transactions of a foreign (other state) credit union in this state. Those laws include, but are not limited to, consumer protection laws and laws relating to creditor rights and remedies, mortgages and deeds of trust, bank deposits and collections, and negotiable instruments.

16102. (a) Any foreign (other state) credit union that is authorized to and does maintain a California branch office or California facility is exempted from the restrictions of Section 1 of Article XV of the California Constitution relating to rates of interest upon the loan or forbearance of any money, goods, or things in action or on accounts after demand.

(b) This section does not exempt a foreign (other state) credit union or any subsidiary from complying with all other laws and regulations

governing the business in which the foreign (other state) credit union or subsidiary is engaged.

(c) This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

(d) This section does not authorize a foreign (other state) credit union or any subsidiary to charge an interest rate on a loan or forbearance in excess of any limitation that exists under the laws of its home state.

16103. (a) A foreign (other state) credit union that is licensed to establish and maintain an office or offices in this state shall keep the assets of the offices separate and apart from the assets of its business outside this state, if required by written order of the commissioner.

(b) Persons who are creditors of a foreign (other state) credit union as a result of the business of an office of the foreign (other state) credit union in this state shall be entitled to priority over other creditors with respect to the assets of the business in this state of the foreign (other state) credit union.

Article 7. Examination, Reports, and Records

16150. (a) The commissioner may at any time investigate into the affairs and examine the books, accounts, and other records of a foreign (other state) credit union and of any subsidiary thereof.

(b) The commissioner and any person designated by him or her shall have free access to any office of the foreign (other state) credit union and to its books, accounts, and other records.

16151. The commissioner may make any examination of a foreign (other state) credit union at any office of the commissioner.

16152. (a) Each foreign (other state) credit union shall, within 10 days after receipt or within any extended time that the commissioner may specify, file with the commissioner a copy of any audit report obtained by, and of any examination report prepared for or of, the foreign (other state) credit union.

(b) Each foreign (other state) credit union shall file with the commissioner a copy of any response made by the foreign (other state) credit union to an audit or examination report referred to in subdivision (a) within 10 days after making the response or within any extended time that the commissioner may specify.

16153. A foreign (other state) credit union shall file with the commissioner any other report as the commissioner may from time to time require. Each report shall be in the form, contain the information, and be filed on the date, as may be prescribed by the commissioner.

16154. A foreign (other state) credit union that maintains a California branch office or California facility, if required by the commissioner, shall make, keep, and preserve, at the branch office,

facility, or at any other place that the commissioner may by regulation or order approve, the books, accounts, and other records relating to the business of the California branch office or California facility, in the form, in the manner, and for the time that the commissioner may by regulation or order require.

Article 9. Enforcement

16200. (a) The commissioner may bring an action in the name of the people of this state in the superior court to enjoin any violation of, to enforce compliance with, or to collect any penalty or other liability imposed under this division or any regulation or order issued under this chapter. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and a monitor, receiver, conservator, or other designated fiduciary or officer of the court may be granted as appropriate.

(b) A receiver, monitor, conservator, or other designated fiduciary officer of the court appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the court.

(c) If the commissioner finds that it is in the public interest, the commissioner may include in a claim for restitution, disgorgement, or damages on behalf of the person injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award ancillary relief.

(d) The provisions of this section that authorize the commissioner to bring actions and seek relief are not intended to, and do not, affect any right that any other person may have to bring the same or similar actions or to seek the same or similar relief.

16200.5. (a) If the commissioner finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 16020, the commissioner may order the person to cease and desist from the violation unless and until the person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom the order is directed may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence a hearing within 15 business days after

the application is filed with him or her (or within such longer period to which the person consents), the order shall be deemed rescinded. At the hearing the commissioner shall affirm, modify, or rescind the order.

(2) The right of any person, to whom an order is issued under subdivision (a), to petition for judicial review of the order shall not be affected by the failure of the person to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16201. If, after notice and hearing, the commissioner finds that any person has violated any provision of this chapter or of any regulation or order issued under this chapter, the commissioner may order the person to pay to the commissioner a civil penalty in an amount as the commissioner may specify; provided, however, that the amount of the civil penalty shall not exceed one hundred dollars ($100) for each violation or, in the case of a continuing violation, one hundred dollars ($100) for each day for which the violation continues.

16202. If, after notice and hearing, the commissioner finds any of the following with respect to a foreign (other state) credit union that is licensed to maintain an office in this state, the commissioner may issue an order suspending or revoking the license of the foreign (other state) credit union:

(a) That the foreign (other state) credit union has violated a provision of this division or of any regulation or order issued under this division or a provision of any other applicable law, regulation, or order.

(b) That the foreign (other state) credit union is transacting the business in this state or elsewhere in an unsafe or unsound manner.

(c) That the foreign (other state) credit union is in unsafe or unsound condition.

(d) That the foreign (other state) credit union has ceased to operate its office.

(e) That the foreign (other state) credit union is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities, including share accounts and certificates for funds, exceed its assets.

(f) That the foreign (other state) credit union has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) That the foreign (other state) credit union has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for such relief under any such law against the foreign (other state) credit union, and the foreign (other state) credit union has by any affirmative act approved of or consented to the action or the relief has been granted.

(h) That a receiver, liquidator, or conservator has been appointed for the foreign (other state) credit union or that any proceeding for an appointment or any similar proceeding has been initiated in the home state of the foreign (other state) credit union.

(i) That the existence of the foreign (other state) credit union or the authority of the foreign (other state) credit union to transact banking business under the laws of the home state of the foreign (other state) credit union has been suspended or terminated.

(j) That any fact or condition exists that, if it had existed at the time when the foreign (other state) credit union applied for approval to transact business in this state, would have been grounds for denying the application.

16203. (a) If the commissioner finds that any of the factors set forth in Section 16202 is true with respect to any foreign (other state) credit union that is licensed to maintain an office in this state and that it is necessary for the protection of the interests of creditors of the foreign (other state) credit union's business in this state or, in any case, for the protection of the public interest that the commissioner immediately suspend or revoke the license of the foreign (other state) credit union, the commissioner may issue an order suspending or revoking the license of the foreign (other state) credit union.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the foreign (other state) credit union to which the order is issued may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence the hearing within 15 business days after the application is filed with the commissioner (or within any longer period to which the foreign (other state) credit union consents), the order shall be deemed rescinded. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any foreign (other state) credit union to which an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the foreign (other state) credit union to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16204. Any foreign (other state) credit union whose license to maintain an office is suspended or revoked shall immediately surrender the license to the commissioner.

16205. (a) Any foreign (other state) credit union to which an order is issued under Section 16202 or 16203 may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the foreign (other state) credit union will, if and when it is again authorized to maintain an office,

comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any foreign (other state) credit union to which an order is issued under Section 16202 or 16203 to petition for judicial review of the order shall not be affected by the failure of the foreign (other state) credit union to apply to the commissioner pursuant to subdivision (a) to modify or rescind the order.

16206. (a) If the commissioner finds that any of the factors set forth in Section 16202 is true with respect to any foreign (other state) credit union which is authorized to transact business in this state and that it is necessary for the protection of the interests of the creditors of the business of the foreign (other state) credit union in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the foreign (other state) credit union, the commissioner may by order forthwith take possession of the property and business of the foreign (other state) credit union and retain possession until the foreign (other state) credit union resumes business in this state or is finally liquidated. The foreign (other state) credit union may, with the consent of the commissioner, resume business in this state under the conditions as the commissioner may prescribe.

(b) (1) Whenever the commissioner takes possession of the property and business of a foreign (other state) credit union pursuant to subdivision (a), the foreign (other state) credit union may, within 10 days, apply to the superior court in the county in which the primary office in this state of the foreign (other state) credit union is located to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order him or her to surrender the property and business of the foreign (other state) credit union to the foreign (other state) credit union or make any further order as may be just.

(2) The judgment of the court may be appealed by the commissioner or by the foreign (other state) credit union in the manner provided by law for appeals from the judgment of a superior court to the court of appeal. In case the commissioner appeals the judgment of the court, the appeal shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) Whenever the commissioner takes possession of the property and business of a foreign (other state) credit union pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the foreign (other state) credit union in accordance with Sections 14301 to 14304, inclusive.

(d) When the commissioner has completed the liquidation of the property and business of a foreign (other state) credit union in this state,

the commissioner shall transfer any remaining assets to the foreign (other state) credit union in accordance with any order the court may issue. However, in case the foreign (other state) credit union has an office in another state of the United States which is in liquidation and the assets of that office appear to be insufficient to pay in full the creditors of that office, the court shall order the commissioner to transfer to the liquidator of that office the amount of any remaining assets as appears to be necessary to cover the insufficiency. If there are two or more offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to those offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in the manner as the court determines.

SEC. 4. Chapter 11 (commencing with Section 16500) is added to Division 5 of the Financial Code, to read:

CHAPTER 11. FOREIGN (OTHER NATION) CREDIT UNIONS

Article 1. General Provisions

16500. This chapter may be cited as the ''Foreign (Other Nation) Credit Union Law.''

16501. In this chapter:

(a) ''Agency,'' when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union transacts credit union business, other than branch business.

(b) ''Branch business'' means the business of issuing shares or certificates, receiving deposits, paying checks, making loans, and other activities that the commissioner may specify by order or regulation.

(c) ''Branch office,'' when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in branch business.

(d) ''Business in this state,'' when used with respect to a foreign (other nation) credit union which is licensed to maintain one or more offices, includes the aggregate business of all of the offices.

(e) ''Foreign nation'' means any nation other than the United States, including, without limitation, any subdivision, territory, trust territory, dependency, colony, or possession of any nation other than the United States.

(f) ''Foreign (other nation) credit union'' means any credit union or similar institution that is organized under the laws of a foreign nation.

(g) ''Foreign (other state) state credit union'' means a credit union that is organized under the laws of a state of the United States other than California.

(h) ''Home country,'' when used with respect to a foreign (other nation) credit union, means the foreign nation under whose laws the foreign (other nation) credit union is organized.

(j) ''Home country regulator,'' when used with respect to a foreign (other nation) credit union, means the regulatory agency in the home country of the foreign (other nation) credit union which has primary regulatory authority over the foreign (other nation) credit union.

(k) (1) ''License'' means a license issued under this chapter, authorizing a foreign (other nation) credit union to maintain an office.

(2) To be ''licensed'' means to be issued or to hold a license.

(3) To be ''licensed to transact business in this state,'' when used with respect to a foreign (other nation) credit union, means that the foreign (other nation) credit union is licensed to maintain an agency or branch office.

(*l*) ''Office,'' when used with respect to a foreign (other nation) credit union, means a branch office, an agency, or a representative office maintained by the foreign (other nation) credit union.

(m) ''Representative office,'' when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in representational functions but at which it does not transact business.

(n) ''State of the United States'' means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

16502. Nothing in this chapter shall apply to a foreign (other state) state credit union or be deemed to authorize a foreign (other state) state credit union to transact business in this state.

16503. No foreign (other nation) credit union may establish a branch office unless its deposit or share accounts are insured by the National Credit Union Administration or other insurer that is not unsatisfactory to the commissioner.

16504. Each application filed with the commissioner under this chapter or under any regulation or order issued under this chapter shall be in the form, shall contain the information, shall be signed in the manner, and shall (if the commissioner requires by regulation or order) be verified in the manner that the commissioner may by regulation or order require.

16505. Fees shall be paid to and collected by the commissioner as follows:

(a) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is not licensed to transact business in this state for approval to establish a branch office shall be one thousand dollars ($1,000).

(b) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is not licensed to transact business in this state for approval to establish an agency shall be five hundred dollars ($500).

(c) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is licensed to transact business in this state for approval to establish a branch office shall be five hundred dollars ($500).

(d) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is licensed to transact business in this state for approval to establish an agency shall be two hundred fifty dollars ($250).

(e) The fee for filing with the commissioner an application by a foreign (other nation) credit union for approval to establish a representative office shall be two hundred fifty dollars ($250).

(f) The fee for filing with the commissioner an application by a foreign (other nation) credit union for approval to relocate or to close an office shall be one hundred fifty dollars ($150).

(g) The fee for issuing a license shall be twenty-five dollars ($25).

(h) Each foreign (other nation) credit union that on June 1 of any year maintains one or more offices shall pay, on or before the following July 1, a fee of two hundred fifty dollars ($250) per branch office, one hundred dollars ($100) per agency, and fifty dollars ($50) per representative office.

(i) If the commissioner makes an examination in connection with a pending application, the foreign (other nation) credit union making the application shall pay a fee for the examination at the rate of seventy-five dollars ($75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(j) If the commissioner makes an examination of a foreign (other nation) credit union that is licensed to maintain an office, the foreign (other nation) credit union shall pay a fee for the examination at the rate of seventy-five dollars ($75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

16506. (a) (1) No foreign (other nation) credit union shall be issued a license to maintain an office unless it shall have first filed with the commissioner, in the form that the commissioner may by regulation or order require, an appointment irrevocably appointing the commissioner and the commissioner's successor from time to time in office to be the foreign (other nation) credit union's attorney to receive

service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other nation) credit union or any of its successors that arises out of the activities in this state after the appointment has been filed, with the same force and validity as if served personally on the foreign (other nation) credit union or its successor, as the case may be.

(2) Any foreign (other nation) credit union that maintains an office in this state and that has not filed with the commissioner an appointment pursuant to paragraph (1) shall be deemed by the maintenance of that office to have appointed the commissioner as its attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other nation) credit union or any of its successors that arises out of the activities in this state with the same force and validity as if served personally on the foreign (other nation) credit union or its successor, as the case may be.

(b) Service may be made on a foreign (other nation) credit union that has appointed or is deemed to have appointed the commissioner as its attorney for service of process by leaving a copy of the process at any office of the commissioner. However, the service is not effective unless (1) the party making the service, who may be the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the foreign (other nation) credit union served at its last address on file with the commissioner at any of its offices in this state or at its head office, and (2) an affidavit of compliance with this subdivision by the party making service is filed in the case on or before the return date, if any, or within any further time that the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

16507. In administering the provisions of this chapter, the commissioner may share information with federal and home country regulators of foreign (other nation) credit unions.

16508. No license shall be transferable or assignable.

16509. A foreign (other nation) credit union that is licensed to establish an office shall post at a conspicuous place at the office a notice to the public which states the name of the foreign (other nation) credit union, the type of office it is, and the foreign country under whose laws it was organized or chartered.

16510. Whenever a foreign (other nation) credit union is licensed to establish more than one office, it shall designate one of its offices as its primary office.

16511. Each foreign (other nation) credit union that is licensed to establish an office shall conduct all of the business of the office in a single building or in adjoining buildings. However, with the approval of

the commissioner, the foreign (other nation) credit union may conduct part of the business of the office elsewhere in the same vicinity.

16512. Whenever any provision of this chapter or of any regulation or order issued under this chapter that is applicable to or with respect to a foreign (other nation) credit union that maintains a branch office or facility is inconsistent with any provision of any other chapter of this division, the former provision applies, and the latter provision does not apply.

Article 2. Representative Offices

16525. (a) No foreign (other nation) credit union shall establish or maintain an office in this state at which it engages in representational functions unless it is licensed to maintain a representative office, agency, or branch office at that place.

(b) (1) No person shall establish or maintain an office in this state as representative of a foreign (other nation) credit union unless the foreign (other nation) credit union is licensed to maintain the office as a representative office.

(2) For purposes of this chapter, if any person establishes or maintains an office in this state as representative of a foreign (other nation) credit union, the foreign (other nation) credit union shall be deemed to establish and maintain the office as a representative office.

16526. (a) No foreign (other nation) credit union shall establish or maintain a representative office unless the commissioner shall have first approved the establishment of the office and issued a license authorizing the foreign (other nation) credit union to maintain the office.

(b) If the commissioner finds the following with respect to an application by a foreign (other nation) credit union for approval to establish a representative office, the commissioner shall approve the application:

(1) That the foreign (other nation) credit union, the directors and executive officers of the foreign (other nation) credit union, and the proposed management of the office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other nation) credit union are satisfactory.

(3) That the management of the foreign (other nation) credit union and the proposed management of the office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the office, the foreign (other nation) credit union will operate the office in compliance with all applicable laws, regulations, and orders.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to establish a representative office has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other nation) credit union to maintain the office have been fulfilled, the commissioner shall issue the license.

16527. (a) No foreign (other nation) credit union that is licensed to maintain a representative office shall relocate the office unless the commissioner shall have first approved the relocation and issued a license authorizing the credit union to maintain the office at the new site.

(b) (1) In case the new site of a representative office is in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate the representative office if the commissioner finds that the relocation of the office will not be substantially detrimental to the public convenience and advantage.

(2) In case the new site of a representative office is not in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate the representative office if the commissioner finds both of the following:

(i) The relocation of the office from the old site will not be substantially detrimental to the public convenience and advantage in the area that is primarily served by the office at the old site.

(ii) The relocation of the office to the new site will promote the public convenience and advantage.

If the commissioner does not make the findings required under either paragraph (1) or (2), the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to relocate a representative office has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other nation) credit union to maintain the office at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after a foreign (other nation) credit union that is licensed to maintain a representative office relocates the office, the foreign (other nation) credit union shall surrender to the commissioner the license that authorized it to maintain the office at the old site.

16528. A foreign (other nation) credit union that is licensed to maintain a representative office may, subject to any regulations that the commissioner may prescribe, engage in representational functions at the office but shall not solicit or accept share accounts or deposits or otherwise transact business at the office.

16529. (a) (1) No foreign (other nation) credit union that is licensed to maintain a representative office shall close the office unless the commissioner shall have first approved the closing.

(2) Paragraph (1) shall not be deemed to prohibit a foreign (other nation) credit union that is licensed to maintain a representative office from closing the office in accordance with Article 8 (commencing with Section 16800).

(b) If the commissioner finds, with respect to an application by a foreign (other nation) credit union for approval to close a representative office, that the closing of the office will not be substantially detrimental to the public convenience and advantage, the commissioner shall approve the application. If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to close a representative office has been approved and all conditions precedent to the closing have been fulfilled, the foreign (other nation) credit union may close the office and shall promptly thereafter surrender to the commissioner the license that authorized it to maintain the office.

16530. The approval of an application for approval to establish a representative office shall be revoked by operation of law if the applicant foreign (other nation) credit union does not establish and maintain the office within one year after the date of the approval, unless prior to the expiration of the one-year period the commissioner extends the time within which the foreign (other nation) credit union may establish the representative office.

Article 3. Branch Offices and Agencies

16550. (a) No foreign (other nation) credit union shall transact business in this state except at a branch office or agency that it is licensed to maintain and at which it is permitted by this chapter to transact the business transacted.

(b) Subdivision (a) shall not be deemed to prohibit any of the following:

(1) Any foreign (other nation) credit union from carrying on the activities described in subdivision (d) of Section 191 of the Corporations Code.

(2) The advertising or solicitation of shares or deposits in this state by a foreign (other nation) credit union made through the media of the mail, radio, television, magazines, newspapers, the Internet, or similar media, provided that shares or deposits are not accepted or received in this state.

(3) The acceptance of loan applications through agents in this state, provided the loan applications are approved or rejected, and the loans are funded, outside of this state.

(c) For the purposes of subdivision (a), no foreign (other nation) credit union shall be deemed to be transacting business in this state merely because a majority-owned subsidiary transacts business in this state.

16551. No foreign (other nation) credit union shall be licensed to maintain a branch office or agency unless it is qualified to transact intrastate business in this state under Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code, except as provided in Section 8910 of the Corporations Code.

16552. (a) No foreign (other nation) credit union shall establish or maintain a branch office or agency unless the commissioner shall have first approved its establishment and issued a license authorizing the foreign (other nation) credit union to maintain the branch office or agency.

(b) If the commissioner finds all of the following with respect to an application by a foreign (other nation) credit union for approval to establish a branch office or agency, the commissioner shall approve the application:

(1) That the foreign (other nation) credit union, the directors and officers of the foreign (other nation) credit union, and the proposed management of the office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other nation) credit union are satisfactory.

(3) That the management of the foreign (other nation) credit union and the proposed management of the office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the office, the foreign (other nation) credit union will operate the office in a safe and sound manner and in compliance with all applicable laws, regulations, and orders.

(5) That the foreign (other nation) credit union's plan to establish and to maintain the office affords reasonable promise of successful operation.

(6) That the foreign (other nation) credit union's establishment and maintenance of the office will promote the public convenience and advantage, and is necessary or convenient to meet the needs of the foreign (other nation) credit union's members.

(7) Not more than 50 percent of the members of the foreign (other nation) credit union are or will be residents of this state.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to establish a branch office or agency has been approved and all conditions precedent to the issuance of a license authorizing the

foreign (other nation) credit union to maintain the branch office or agency have been fulfilled, the commissioner shall issue the license.

16553. The approval of an application for approval to establish a branch office or agency shall be revoked by operation of law if the applicant foreign (other nation) credit union does not establish and maintain the office within one year after the date of the approval, unless prior to the expiration of the one-year period the commissioner extends the time within which the foreign (other nation) credit union may establish the branch office or agency.

16554. (a) No foreign (other nation) credit union which is licensed to maintain a branch office or agency shall relocate the office unless the commissioner shall have first approved the relocation and issued a license authorizing the foreign (other nation) credit union to maintain the office at the new site.

(b) (1) In case the new site of the office is in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate a branch office or agency if the commissioner finds all of the following:

(A) That it will not be unsafe or unsound for the foreign (other nation) credit union to relocate the office.

(B) That the relocation of the office will not be substantially detrimental to the public convenience and advantage, or that the relocation is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

(2) In case the new site of the office is not in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate a branch office or agency if the commissioner finds all of the following:

(A) That the foreign (other nation) credit union's plan to relocate the office and to maintain the office at the new site affords reasonable promise of successful operation.

(B) That the relocation of the office from the old site will not be substantially detrimental to the public convenience and advantage in the area which is primarily served by the office at the old site, or that the relocation is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

(C) That the relocation of the office to the new site will promote the public convenience and advantage.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to relocate a branch office or agency has been approved and all conditions precedent to the issuance of a license authorizing the

foreign (other nation) credit union to maintain the office at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after a foreign (other nation) credit union that is licensed to maintain a branch office or agency relocates the office, the foreign (other nation) credit union shall surrender to the commissioner the license which authorized it to maintain the office at the old site.

16555. (a) (1) No foreign (other nation) credit union that is licensed to maintain a branch office or agency shall close the office unless the commissioner shall have first approved the closing.

(2) Paragraph (1) shall not be deemed to prohibit a foreign (other nation) credit union that is licensed to maintain a branch office or agency from closing an office in accordance with Article 8 (commencing with Section 16800).

(b) If the commissioner finds the following with respect to an application by a foreign (other nation) credit union for approval to close a branch office or agency, the commissioner shall approve the application:

(1) That it will not be unsafe or unsound for the foreign (other nation) credit union to close the office.

(2) That the closing of the office will not be substantially detrimental to the public convenience and advantage or that the closing of the office is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to close a branch office or agency has been approved and all conditions precedent to the closing have been fulfilled, the foreign (other nation) credit union may close the office and shall promptly thereafter surrender to the commissioner the license which authorized it to maintain the office.

Article 6. Conduct of Credit Union Business

16600. (a) A foreign (other nation) credit union that has a license to establish and maintain an office may engage in activities at the office as may be authorized under applicable laws of its home country and the laws of this state.

(b) Nothing in subdivision (a) authorizes a foreign (other nation) credit union to engage in any activity at an office that it is not authorized to engage in or is prohibited from engaging in under the law of its home country, or that credit unions organized under the laws of this state are not authorized to engage in or are prohibited from engaging in under the laws of this state.

16601. (a) A foreign (other nation) credit union may not expand its field of membership in this state without first obtaining the commissioner's approval.

(b) An application for the commissioner's approval of an expansion of the field of membership in this state by a foreign (other nation) credit union shall be in the form and contain the information as may be specified, by order or regulation, by the commissioner.

16602. (a) The following provisions of this code apply to a foreign (other nation) credit union that maintains a branch office or agency with respect to its business in this state as if the foreign (other nation) credit union were a credit union organized under the laws of this state:

(1) Section 14203.
(2) Section 14204.
(3) Section 14208.
(4) Section 14210.
(5) Section 14256.
(6) Section 14409.
(7) Section 14409.2.
(8) Section 14602.
(9) Section 14652.5.
(10) Section 14655, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other nation) credit union.
(11) Section 14656, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other nation) credit union.
(12) Article 8 (commencing with Section 14750) of Chapter 4.
(13) Section 14800.
(14) Section 14802.
(15) Section 14803.
(16) Section 14807.
(17) Section 14808.
(18) Section 14809.
(19) Article 1 (commencing with Section 14850) of Chapter 6.
(20) Article 1 (commencing with Section 14950) of Chapter 7.
(21) Article 2 (commencing with Section 15001) of Chapter 7.
(22) Article 3 (commencing with Section 15050) of Chapter 7, to the extent loans of the type described in that article are carried on the books of a branch office of a foreign (other nation) credit union.
(23) Section 15102.

(b) In addition to the laws specified in subdivision (a), the laws of this state applicable to transactions between a credit union organized under the laws of this state and its members and creditors shall similarly apply to the transactions of a foreign (other nation) credit union in this state.

These laws include, but are not limited to, consumer protection laws and laws relating to creditor rights and remedies, commercial transactions, mortgages and deeds of trust, bank deposits and collections, and negotiable instruments.

16603. (a) Any foreign (other nation) credit union that is authorized to and does maintain a branch office or agency is exempted from the restrictions of Section 1 of Article XV of the California Constitution relating to rates of interest upon the loan or forbearance of any money, goods, or things in action or on accounts after demand.

(b) This section does not exempt a foreign (other nation) credit union or any subsidiary from complying with all other laws and regulations governing the business in which the foreign (other nation) credit union or subsidiary is engaged.

(c) This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

16604. (a) A foreign (other nation) credit union which is licensed to establish and maintain an office or offices shall keep the assets of the offices separate and apart from the assets of its business outside this state.

(b) Persons who are creditors of a foreign (other nation) credit union as a result of the business of an office of the foreign (other nation) credit union in this state shall be entitled to priority over other creditors with respect to the assets of the business in this state of the foreign (other nation) credit union.

16605. (a) In this section:

(1) ''Adjusted liabilities,'' when used with respect to a foreign (other nation) credit union, means the liabilities of the foreign (other nation) credit union's business in this state, determined in accordance with generally accepted accounting principles, but excluding (A) accrued expenses, (B) any liability to an office (whether in or outside of this state) or majority-owned subsidiary of the foreign (other nation) credit union, and (C) other liabilities as the commissioner may by regulation or order exclude.

(2) ''Applicable minimum,'' when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign (other nation) credit union, means the amount as the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union's business in this state, or for the protection of the public interest. However, in the case of a foreign (other nation) credit union which is licensed to maintain a branch office, the applicable minimum shall not be less than 5 percent of the adjusted liabilities of the foreign (other nation) credit union.

(3) ''Approved depository,'' when used with respect to a foreign (other nation) credit union, means a bank or credit union organized under the laws of this state or a national bank headquartered in this state that has been selected by the foreign (other nation) credit union and approved by the commissioner for the purpose of acting as the approved depository of the foreign (other nation) credit union and that has filed with the commissioner, in the form as the commissioner may by regulation or order prescribe, an agreement to comply with all applicable provisions of this section and of any regulation or order issued under this section.

(4) ''Eligible assets'' when used with respect to a foreign (other nation) credit union, means any of the following:

(A) Cash.

(B) Any negotiable certificate of deposit that (i) has a maturity of not more than one year, (ii) is payable in the United States, and (iii) is issued by a bank organized under the laws of a state of the United States, by a national bank, or by a branch office of a foreign (other nation) bank that is located in the United States.

(C) Any banker's acceptance that is payable in the United States and that is eligible for discount with a federal reserve bank.

(D) Any other asset that the commissioner by regulation or order determines to be eligible.

Notwithstanding the foregoing provisions of this paragraph, ''eligible asset,'' when used with respect to a foreign (other nation) credit union, does not include any instrument the issuer of which (i) is, or is affiliated with, the foreign (other nation) credit union, (ii) is domiciled in, or controlled by a person domiciled in, the same foreign nation as the foreign (other nation) credit union, or (iii) is, or is controlled by, the foreign nation. For purposes of the foregoing provision, to be ''affiliated'' means to control, to be controlled by, or to be under common control with; and to ''control'' has the meaning set forth in subdivision (b) of Section 700.

(b) For purposes of this section:

(1) The amount of adjusted liabilities of a foreign (other nation) credit union's business in this state shall be computed for the period of time and in the manner as the commissioner may by regulation or order prescribe.

(2) An eligible asset shall be valued at the lesser of market or par.

(c) (1) Before a foreign (other nation) credit union is authorized to transact business in this state, the foreign (other nation) credit union shall deposit, and each foreign (other nation) credit union that is licensed to transact business in this state shall maintain on deposit, with an approved depository eligible assets having a value in an amount not less than the applicable minimum.

(2) Whenever a foreign (other nation) credit union that is licensed to transact business in this state ceases to be so licensed, the foreign (other nation) credit union shall thereafter maintain on deposit with an approved depository eligible assets having a value in an amount not less than the applicable minimum for the period of time as the commissioner may determine to be necessary for the protection of creditors of the foreign (other nation) credit union's business in this state or for the protection of the public interest.

(d) (1) No foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section shall withdraw any eligible asset except with the prior approval of the commissioner.

(2) No approved depository that holds eligible assets on deposit from a foreign (other nation) credit union pursuant to this section shall release any eligible asset except with the prior approval of the commissioner or as otherwise provided in subdivision (h).

(e) Any foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section shall, unless the commissioner shall have suspended or revoked its authorization to transact business in this state or taken possession of its property and business in this state, be entitled to receive any income paid on eligible assets.

(f) (1) Whenever a foreign (other nation) credit union deposits eligible assets with, or withdraws eligible assets from, an approved depository pursuant to this section, the foreign (other nation) credit union shall do so in accordance with the procedures and requirements as the commissioner may by regulation or order prescribe.

(2) Whenever an approved depository receives, holds, or releases eligible assets pursuant to this section, the approved depository shall do so in accordance with the procedures and requirements as the commissioner may by regulation or order prescribe and shall file with the commissioner reports as and when the commissioner may by regulation or order require.

(g) Whenever a foreign (other nation) credit union maintains eligible assets on deposit with an approved depository pursuant to this section:

(1) The eligible assets shall be deemed to be pledged to the commissioner for the benefit of the creditors of the foreign (other nation) credit union's business in the state; and, notwithstanding any provision of the Uniform Commercial Code to the contrary, the commissioner, for the benefit of these creditors, shall be deemed to have a security interest in the eligible assets.

(2) The eligible assets shall be free from any lien, charge, right of setoff, credit, or preference in connection with any claim of the approved depository against the foreign (other nation) credit union.

(h) (1) In case the commissioner takes possession of the property and business of a foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section, the approved depository shall, upon order of the commissioner, release the eligible assets to the commissioner, as liquidator of the property and business of the foreign (other nation) credit union.

(2) In case a foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section fails to pay any judgment creditor of its business in this state and the commissioner has not taken possession of the property and business of the foreign (other nation) credit union, the approved depository shall release the eligible assets to the commissioner, and the commissioner shall dispose of the eligible assets, as a court of competent jurisdiction of this state or of the United States may order for the benefit of the judgment creditor. For purposes of this paragraph, ''judgment creditor of its business in this state'' means a person to whom the foreign (other nation) credit union is required to pay money under a judgment that (A) arose out of the foreign (other nation) credit union's business in this state, (B) has been entered by a court of this state or of the United States, (C) has become final, in that all possibility of direct attack on the judgment by way of appeal, motion for new trial, motion to vacate, or petition for extraordinary writ has been exhausted, and (D) has remained unpaid for a period of not less than 60 days after becoming final.

16607. (a) In this section:

(1) ''Adjusted liabilities,'' when used with respect to a foreign (other nation) credit union that is licensed to maintain a branch office, means the liabilities of the foreign (other nation) credit union's business in this state, excluding (A) accrued expenses, (B) any liability to an office (whether in or outside of this state) or majority-owned subsidiary of the foreign (other nation) credit union, and (C) other liabilities as the commissioner may by regulation or order exclude.

(2) ''Eligible assets'' means any asset which the commissioner by regulation or order determines to be eligible for purposes of this section. However, ''eligible asset,'' when used with respect to a foreign (other nation) credit union that is licensed to maintain a branch office, includes any asset which the foreign (other nation) credit union maintains on deposit pursuant to Section 16606.

(b) For purposes of this section, the amount of eligible assets and the amount of adjusted liabilities of a foreign (other nation) credit union that is licensed to maintain a branch office each be computed for the period of time and in the manner as the commissioner may by regulation or order prescribe.

(c) A foreign (other nation) credit union licensed to maintain a branch office shall hold at its branch offices in this state or at any other place as

the commissioner may approve, eligible assets in the amount, if any, as the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union's business in this state, or for the protection of the public interest. However, in no event shall the amount exceed 108 percent of the adjusted liabilities of the foreign (other nation) credit union's business in this state.

(d) If the commissioner finds, with respect to a foreign (other nation) credit union licensed to maintain a branch office in this state, that the action is necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union's business in this state, or for the protection of the public interest, the commissioner may order the foreign (other nation) credit union to place all or part of the eligible assets which the foreign (other nation) credit union is required to hold under subdivision (c) in the custody of a bank organized under the laws of this state or a national bank headquartered in this state as the commissioner may designate, and such assets shall be subject to the order of the commissioner.

Article 7. Examination, Reports, and Records

16700. (a) The commissioner may at any time investigate into the affairs and examine the books, accounts, and other records of a foreign (other nation) credit union and of any subsidiary thereof.

(b) The commissioner and any person designated by the commissioner shall have free access to any office of the foreign (other nation) credit union and to its books, accounts, and other records.

16701. The commissioner may make an examination of a foreign (other nation) credit union at any office of the commissioner.

16702. (a) Each foreign (other nation) credit union shall, within 10 days after receipt or within any extended time that the commissioner may specify, file with the commissioner a copy of any audit report obtained by, and of any examination report prepared for, the foreign (other nation) credit union.

(b) Each foreign (other nation) credit union shall file with the commissioner a copy of any response made by the foreign (other nation) credit union to an audit or examination report referred to in subdivision (a) within 10 days after making the response or within any extended time that the commissioner may specify.

16703. A foreign (other nation) credit union shall file with the commissioner any other report as the commissioner may from time to time require. Each report shall be in the form, contain the information, and be filed on the date, as may be prescribed by the commissioner.

16704. Each foreign (other nation) credit union that maintains an office shall make, keep, and preserve at that office, or at any other place that the commissioner may by regulation or order approve, the books, accounts, and other records relating to the business of the office, in the form, in the manner, and for the time that the commissioner may, by regulation or order, require.

Article 8. Voluntary Surrender of License

16800. (a) A foreign (other nation) credit union that is licensed to maintain an office may voluntarily surrender the license for the office by filing the license and a report with the commissioner. However, a foreign (other nation) credit union that holds licenses to maintain two or more offices may not voluntarily surrender less than all of its licenses.

(b) (1) Except as otherwise provided in paragraph (2), a voluntary surrender of a license shall be effective on the 30th day after the license and the report called for in subdivision (a) are filed with the commissioner or on an earlier date as the commissioner may by order specify.

(2) If a proceeding to revoke or suspend a license is pending at the time when the license and the report called for in subdivision (a) are filed with the commissioner or if a proceeding to revoke or suspend a license or to impose conditions upon the surrender of a license is instituted before the 30th day after the license and the report called for in subdivision (a) are filed with the commissioner, the voluntary surrender of the license shall become effective at the time and upon the conditions that the commissioner may by order specify.

Article 9. Enforcement

16900. (a) The commissioner may bring an action in the name of the people of this state in the superior court to enjoin any violation of, to enforce compliance with, or to collect any penalty or other liability imposed under this division or any regulation or order issued under this chapter. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and a monitor, receiver, conservator, or other designated fiduciary or officer of the court may be granted as appropriate.

(b) A receiver, monitor, conservator, or other designated fiduciary officer of the court appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be

maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the court.

(c) If the commissioner finds that it is in the public interest, the commissioner may include in a claim for restitution, disgorgement, or damages on behalf of the person injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award ancillary relief.

(d) The provisions of this section that authorize the commissioner to bring actions and seek relief are not intended to, and do not, affect any right that any other person may have to bring the same or similar actions or to seek the same or similar relief.

16900.5. (a) If the commissioner finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 16020, the commissioner may order the person to cease and desist from the violation unless and until the person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom the order is directed may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence a hearing within 15 business days after the application is filed with him or her (or within such longer period to which the person consents), the order shall be deemed rescinded. At the hearing the commissioner shall affirm, modify, or rescind the order.

(2) The right of any person, to whom an order is issued under subdivision (a), to petition for judicial review of the order shall not be affected by the failure of the person to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16901. If, after notice and hearing, the commissioner finds that any person has violated any provision of this chapter or of any regulation or order issued under this chapter, the commissioner may order the person to pay to the commissioner a civil penalty in an amount as the commissioner may specify; provided, however, that the amount of the civil penalty shall not exceed one hundred dollars ($100) for each violation or, in the case of a continuing violation, one hundred dollars ($100) for each day for which the violation continues.

16902. If, after notice and hearing, the commissioner finds any of the following with respect to a foreign (other nation) credit union that is licensed to maintain an office, the commissioner may issue an order suspending or revoking the license of the foreign (other nation) credit union.

(a) That the foreign (other nation) credit union has violated a provision of this division or of any regulation or order issued under this division or a provision of any other applicable law, regulation, or order.

(b) That the foreign (other nation) credit union is transacting the business in this state or elsewhere in an unsafe or unsound manner.

(c) That the foreign (other nation) credit union is in unsafe or unsound condition.

(d) That the foreign (other nation) credit union has ceased to operate its office.

(e) That the foreign (other nation) credit union is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities exceed its assets.

(f) That the foreign (other nation) credit union has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) That the foreign (other nation) credit union has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for such relief under any such law against the foreign (other nation) credit union, and the foreign (other nation) credit union has by any affirmative act approved of or consented to the action or the relief has been granted.

(h) That a receiver, liquidator, or conservator has been appointed for the foreign (other nation) credit union or that any proceeding for an appointment or any similar proceeding has been initiated in the home country of the foreign (other nation) credit union.

(i) That the existence of the foreign (other nation) credit union or the authority of the foreign (other nation) credit union to transact banking business under the laws of the home country of the foreign (other nation) credit union has been suspended or terminated.

(j) That any fact or condition exists that, if it had existed at the time when the foreign (other nation) credit union applied for approval to transact business in this state, would have been grounds for denying the application.

16903. (a) If the commissioner finds that any of the factors set forth in Section 16902 is true with respect to any foreign (other nation) credit union that is licensed to maintain an office and that it is necessary for the protection of the interests of creditors of the foreign (other nation) credit union's business in this state or, in any case, for the protection of the public interest that the commissioner immediately suspend or revoke the license of the foreign (other nation) credit union, the commissioner may issue an order suspending or revoking the license of the foreign (other nation) credit union.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the foreign (other nation) credit union to which the order is issued may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence the hearing within 15 business days after the application is filed with the commissioner (or within any longer period to which the foreign (other nation) credit union consents), the order shall be deemed rescinded. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any foreign (other nation) credit union to which an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the foreign (other nation) credit union to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16904. Any foreign (other nation) credit union whose license to maintain an office is suspended or revoked shall immediately surrender the license to the commissioner.

16905. (a) Any foreign (other nation) credit union to which an order is issued under Section 16902 and 16903 may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the foreign (other nation) credit union will, if and when it is again authorized to maintain an office, comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any foreign (other nation) credit union to which an order is issued under Section 16902 or 16903 to petition for judicial review of the order shall not be affected by the failure of the foreign (other nation) credit union to apply to the commissioner pursuant to subdivision (a) to modify or rescind the order.

16906. (a) If the commissioner finds that any of the factors set forth in Section 16902 is true with respect to any foreign (other nation) credit union which is authorized to transact business in this state and that it is necessary for the protection of the interests of the creditors of the business of the foreign (other nation) credit union in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the foreign (other nation) credit union, the commissioner may by order forthwith take possession of the property and business of the foreign (other nation) credit union and retain possession until the foreign (other nation) credit union resumes business in this state or is finally liquidated. The foreign (other nation) credit union may, with the consent of the commissioner, resume business in this state under the conditions as the commissioner may prescribe.

(b) (1) Whenever the commissioner takes possession of the property and business of a foreign (other nation) credit union pursuant to subdivision (a), the foreign (other nation) credit union may, within 10 days, apply to the superior court in the county in which the primary office in this state of the foreign (other nation) credit union is located to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order him or her to surrender the property and business of the foreign (other nation) credit union to the foreign (other nation) credit union or make any further order as may be just.

(2) The judgment of the court may be appealed by the commissioner or by the foreign (other nation) credit union in the manner provided by law for appeals from the judgment of a superior court to the court of appeal. In case the commissioner appeals the judgment of the court, the appeal shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) Whenever the commissioner takes possession of the property and business of a foreign (other nation) credit union pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the foreign (other nation) credit union in accordance with Sections 14301 to 14304, inclusive.

(d) When the commissioner has completed the liquidation of the property and business of a foreign (other nation) credit union in this state, the commissioner shall transfer any remaining assets to the foreign (other nation) credit union in accordance with any order the court may issue. However, in case the foreign (other nation) credit union has an office in another state of the United States which is in liquidation and the assets of that office appear to be insufficient to pay in full the creditors of that office, the court shall order the commissioner to transfer to the liquidator of that office the amount of any remaining assets as appears to be necessary to cover the insufficiency. If there are two or more offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to those offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in the manner as the court determines is equitable.

CHAPTER 613

An act to amend Section 469 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with
Secretary of State September 24, 2000.]

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

SECTION 1. Section 469 of the Revenue and Taxation Code is amended to read:

469. In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full value of four hundred thousand dollars ($400,000) or more, the assessor shall audit the books and records of that profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, that determination may be deemed an audit by the assessor for purposes of this section.

Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.

Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of the assessment that was the subject of the equalization hearing.

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when the property had previously been equalized for the year in question.

If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

CHAPTER 614

An act to add Section 12210 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 12210 is added to the Revenue and Taxation Code, to read:

12210. (a) A life insurer or life insurance agent shall inform his or her client of the tax imposed under this part.

(b) A life insurer or life insurance agent who quotes only one price that includes the gross premiums tax is exempt from compliance with the requirements of subdivision (a).

CHAPTER 615

An act relating to tax relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. The appropriation and respective allocations made by this act are in augmentation of the appropriation made in Item 9100-101-0001 of Section 2.00 of the Budget Act of 2000 (Chapter 52, Statutes of 2000) and are subject to the provisions of that act, as appropriate, including the provisions of that act that apply to that item of appropriation.

SEC. 2. The sum of sixty million dollars ($60,000,000) is hereby appropriated in augmentation of the Item 9100-101-0001 of Section 2.00 of Chapter 52 of the Statutes of 2000 in accordance with the following schedule:

(a) The sum of thirteen million one hundred eighty-one thousand dollars ($13,181,000) shall be used in augmentation of Schedule (a) of Item 9100-101-0001 (10-Senior Citizens' Property Tax Assistance).

(b) The sum of forty-six million eight hundred nineteen thousand dollars ($46,819,000) shall be used in augmentation of Schedule (c) of Item 9100-101-0001 (30-Senior Citizen Renters' Tax Assistance).

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 fiscal augmentation in this act may take effect without delay, it is necessary that this act go into immediate effect.

CHAPTER 616

An act to amend Sections 7072 , 7073, and 7074 of, and to repeal Section 7073.3 of, the Government Code, relating to economic development.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) ''Agency'' means the Trade and Commerce Agency.

(b) ''Date of original designation'' means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the agency pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) ''Eligible area'' means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the agency, fulfills at least one of the following:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the agency for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed zone have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed zone has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed zone does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) ''Enterprise zone'' means any area within a city, county, or city and county that is designated as such by the agency in accordance with the provisions of Section 7073.

(e) ''Governing body'' means a county board of supervisors or a city council, as appropriate.

(f) ''High technology industries'' include, but are not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(g) ''Resident,'' unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(h) ''Targeted employment area'' means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a ''targeted employment area'' is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body

of each city, county or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

SEC. 2. Section 7073 of the Government Code is amended to read:

7073. (a) Except as provided in subdivision (e), any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area.

(b) (1) In designating enterprise zones, the agency shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most effective, innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone proposed.

(2) For purposes of this subdivision, regulatory incentives include, but are not limited to, all of the following:

(A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.

(B) The elimination or reduction of fees for applications, permits, and local government services.

(C) The establishment of a streamlined permit process.

(3) For purposes of this subdivision, tax incentives include, but are not limited to, the elimination or reduction of construction taxes or business license taxes.

(4) For the purposes of this subdivision, program and other incentives may include, but are not limited to, all of the following:

(A) The provision or expansion of infrastructure.

(B) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.

(C) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration.

(D) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Training Partnership Act of 1982 (P.L. 97-300).

(E) The targeting of federal or state transportation grant moneys.

(F) The targeting of federal or state low-income housing and rental assistance moneys.

(G) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

(5) In the process of designating new enterprise zones, the agency shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(6) In designating new enterprise zones, the agency shall include in its criteria the fact that jurisdictions have been declared disaster areas by the President of the United States within the last seven years.

(7) When reviewing and ranking new enterprise zone applications, the agency shall give special consideration or bonus points, or both, to applications from jurisdictions that meet at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development,

including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(c) In evaluating applications for designation, the agency shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(d) (1) Except as provided in paragraph (2), or upon dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, a designation made by the agency shall be binding for a period of 15 years from the date of the original designation.

(2) The designation period for any zone designated pursuant to either Section 7073 or 7085 prior to 1990 may total 20 years, subject to possible dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, if the following requirements are met:

(A) The zone receives a superior or passing audit pursuant to subdivision (c) of Section 7076.1.

(B) The local jurisdictions comprising the zone submit an updated economic development plan to the agency justifying the need for an additional five years by defining goals and objectives that still need to be achieved and indicating what actions are to be taken to achieve these goals and objectives.

(e) (1) Notwithstanding any other provision of law, any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood economic development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, or any program area or part of a program area deemed designated as an enterprise zone pursuant to Section 7085.5 as it read prior to January 1, 1997, shall be deemed to be designated as an enterprise zone pursuant to this chapter. The effective date of designation of the enterprise zone shall be that of the original designation of the enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or of the program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, and in no event may the total designation period exceed 15 years, except as provided in paragraph (2) of subdivision (d).

(2) Notwithstanding any other provision of law, any enterprise zone authorized, but not designated, pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, shall be allowed to complete the application process started pursuant to that chapter, and to receive final designation as an enterprise zone pursuant to this chapter.

(3) Notwithstanding any other provision of law, any expansion of a designated enterprise zone or program area authorized pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, shall be deemed to be authorized as an expansion for a designated enterprise zone pursuant to this chapter.

(4) No part of this chapter may be construed to require a new application for designation by an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or a targeted economic development area, neighborhood economic development area, or program area designated pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997.

(f) Notwithstanding any other provision of law, a city, county, or a city and county may designate a joint powers authority to administer the enterprise zone.

(g) No more than 39 enterprise zones may be designated at any one time pursuant to this chapter, including those deemed designated pursuant to subdivision (e). Upon the expiration or termination of a designation, the agency is authorized to designate another enterprise zone to maintain a total of 39 enterprise zones.

SEC. 3. Section 7073.3 of the Government Code is repealed.

SEC. 4. Section 7074 of the Government Code is amended to read:

7074. (a) In the case of any enterprise zone, including an enterprise zone formerly designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, a city or county, or city and county may propose that the enterprise zone be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone.

(b) The agency may approve an enterprise zone expansion proposed pursuant to this section based on the following criteria:

(1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution.

(2) Land included within the proposed expansion is zoned for industrial or commercial use.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(c) An enterprise zone may propose to use eligible expansion allotment to expand into an adjacent jurisdiction pursuant to this section if the agency finds that all of the following conditions exist:

(1) The governing body of the local agency with jurisdiction over the existing enterprise zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution. The ordinance or resolution by the jurisdiction containing the proposed expansion area shall indicate that the jurisdiction will provide the same or equivalent local incentives as provided by the jurisdiction of the existing enterprise zone.

(2) (A) Land included within the proposed expansion is zoned for industrial or commercial use.

(B) An expansion area may contain noncommercial or nonindustrial land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(4) The expansion area is contiguous to the existing enterprise zone.

(d) (1) Except as otherwise provided in paragraph (2), in no event shall an enterprise zone be permitted to expand more than 15 percent in size from its size on the date of original designation, including any expansion authorized pursuant to Chapter 12.8 (commencing with Section 7070), or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(2) If an enterprise zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.

CHAPTER 617

An act to amend Section 6203 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. (a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not

exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) ''Retailer engaged in business in this state'' as used in this section and Section 6202 means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) (A) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(B) This paragraph shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(5) Notwithstanding Section 7262, a retailer specified in paragraph (4) above, and not specified in paragraph (1), (2), or (3) above, is a ''retailer engaged in business in this state'' for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(d) (1) For purposes of this section, ''engaged in business in this state'' does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of online

communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(e) Except as provided in this subdivision, a retailer is not a ''retailer engaged in business in this state'' under paragraph (2) of subdivision (c) if that retailer's sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of his or her representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than 15 days, in whole or in part, in this state during any 12-month period and did not derive more than one hundred thousand dollars ($100,000) of net income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a ''retailer engaged in business in this state,'' and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(f) Any limitations created by this section upon the definition of ''retailer engaged in business in this state'' shall only apply for purposes of tax liability under this code. Nothing in this section is intended to affect or limit, in any way, civil liability or jurisdiction under Section 410.10 of the Code of Civil Procedure.

SEC. 1.5. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. (a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) ''Retailer engaged in business in this state'' as used in this section and Section 6202 means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) (A) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(B) This paragraph shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(5) Notwithstanding Section 7262, a retailer specified in paragraph (4) above, and not specified in paragraph (1), (2), or (3) above, is a ''retailer engaged in business in this state'' for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(d) (1) For purposes of this section, ''engaged in business in this state'' does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of online communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(e) Except as provided in this subdivision, a retailer is not a ''retailer engaged in business in this state'' under paragraph (2) of subdivision (c) if that retailer's sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of his or her representatives, agents, salespersons, canvassers,

independent contractors, or solicitors, does not engage in those convention and trade show activities for more than 15 days, in whole or in part, in this state during any 12-month period and did not derive more than one hundred thousand dollars ($100,000) of net income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a ''retailer engaged in business in this state,'' and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(f) Any limitations created by this section upon the definition of ''retailer engaged in business in the state'' shall only apply for purposes of tax liability under this code. Nothing in this section is intended to affect or limit, in any way, civil liability or jurisdiction under Section 410.10 of the Code of Civil Procedure.

(g) (1) The processing of orders electronically, by fax, telephone, the Internet, or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is engaged in business in this state pursuant to this section.

(2) For purposes of this section, a retailer is presumed to have an agent within the state, as defined in paragraphs (1) and (2) of subdivision (c), if both of the following conditions exist:

(A) The retailer holds a substantial ownership interest, directly or through a subsidiary, in a retailer maintaining sales locations in California or is owned in whole or in substantial part by such a retailer, or by a parent or subsidiary thereof. For purposes of this subparagraph, ''substantial ownership interest'' in an entity means that degree of ownership of equity interests in an entity that is not less than that degree of ownership specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer.

(B) The retailer sells the same or substantially similar line of products as the retailer maintaining sales locations in California under the same or substantially similar business name, or facilities or employees of the related retailer located in this state are used to advertise or promote sales by the retailer to California purchasers.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 6203 of the Revenue and Taxation Code proposed by both this bill and AB 2412. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 6203 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2412, in which case

Section 6203 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 2412, at which time Section 1.5 of this bill shall become operative.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 618

An act to amend Section 65004 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

SECTION 1. Section 65004 of the Revenue and Taxation Code is amended to read:

65004. (a) Except as provided in subdivision (b), no city, county, or city and county may impose, assess, or attempt to collect any of the following:

(1) A tax on Internet access, Online Computer Services, or the use of Internet access or any Online Computer Services.

(2) A bit tax or bandwidth tax.

(3) Any discriminatory tax on Online Computer Services or Internet access.

(b) The prohibition in subdivision (a) against the imposition of taxes shall not apply to any new or existing tax of general application, including, but not limited to, any sales and use tax, business license tax, or utility user tax that is imposed or assessed in a uniform and nondiscriminatory manner without regard to whether the activities or transactions taxed are conducted through the use of the Internet, Internet access, or Online Computer Services.

(c) A cable television franchise fee may not be imposed on Online Computer Services or Internet access delivered over a cable television system if the Federal Communications Commission, by issuing final

order, or a court of competent jurisdiction, by rendering a judgment enforceable in California, finds that those are not cable services as defined in Section 522(6) of Title 47 of the United States Code and are, therefore, not subject to a franchise fee. However, if that final order or judgment is overturned or modified by further administrative, legislative, or judicial action, that action shall control. The operation of this subdivision may be suspended by contract between a cable television franchising authority and a cable television operator.

(d) This part shall become inoperative on January 1, 2005.

SEC. 2. This bill shall become operative only if Assembly Bill 2412 is enacted and becomes effective on or before January 1, 2001.

CHAPTER 619

An act to add and repeal Part 18.3 (commencing with Section 38061) of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed with Secretary of State September 24, 2000.]

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

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

(a) With the rapid development of the Internet and electronic commerce, policymakers at all levels of government are confronted with the challenge of finding ways to encourage this new technology and its impact on our economy continuing to develop prosperously, while addressing the needs for tax equity and assurance that governments at all levels have sufficient revenue to continue providing essential services critical to our economy's continuing growth.

(b) The current national debate on Internet taxation has focused almost entirely on the collection of sales tax on remote sales of tangible products and has produced a myriad of proposals for immediate action that have ranged from allowing states to collect sales taxes on all transactions to imposing a permanent moratorium on any taxes on the Internet.

(c) The Advisory Commission on Electronic Commerce, created by federal law in 1998 to develop ''tax and technologically neutral'' recommendations, thus far has failed to achieve a two-thirds majority vote on a recommendation that it can send to Congress for a national solution that would apply in all states. Furthermore, the commission's charter did not lead it to examine the critical interrelated policy issues of tax equity and government sustenance.

(d) A roundtable of tax and technology experts that convened recently at the University of California Berkeley School of Information Management and Systems cautioned that ''critical decisions about e-commerce taxation should not be made without further neutral and unbiased research.'' Its report specified several areas for detailed study that relate, not only to sales tax issues, but to technology and consumer behavior in the new economy, as well.

(e) The Legislative Analyst, in a January 2000 report titled ''California Tax Policy and the Internet,'' recommended that the Legislature undertake a comprehensive review of the sales and use tax, as well as telecommunications taxes and the corporate income tax, in relation to e-commerce activity and its impact on tax administration, tax equity, and overall state revenue.

(f) California's current tax structure is largely based on a 20th century industrial economy that produced most of its wealth from manufacturing and agriculture. California's 21st century technology-dependent economy is already based largely on information and services, part of a new global economy that is built on the rapid development of ideas and the exchange of information using multiple communications media. It is characterized by rapid restructuring of business-to-business and business-to-customer relationships in the state and across the world and a shift from production and consumption of tangible goods to use of intangible goods and services.

(g) Numerous reports, including the California Economic Strategy Panel's ''Collaborating to Compete in the New Economy'' have identified the characteristics of our state's economic transformation at the end of the last century. That report concluded that the state's developing economy is one that is ''fast, flexible, global, networked, and knowledge-based.'' There is a need to reevaluate our entire system of tax policies and collection mechanisms in light of this new economy. California should lead the way for all states in designing a 21st century tax system.

(h) State and local revenues are generally performing well, based on the state's strong economic performance. This situation provides an opportunity to assure that the tax system performs as well as possible during periods of weaker economic performance, and altogether to assure that sufficient revenues are available for governments to continue providing the services essential for an economy to expand and prosper, by: (1) removing inconsistencies and inefficiencies, (2) addressing equity and fairness concerns, (3) improving administration, and (4) considering base-broadening measures.

(i) Our tax policies must continue to be formulated in ways that recognize the need for government to provide resources for investment in the infrastructure necessary for economic growth, as well as to provide

for the legitimate health, public assistance, and safety needs of our citizens.

(j) It is the purpose of this act to create an open, public, fair, and balanced participatory process for the development of a long-term strategy for revising state and local tax structure for California that eliminates needless complexity and nurtures and expands the state's global leadership in key emerging industries and for businesses that are repositioning to take advantage of the new economy. That policy must balance tax restructuring with the generation of sufficient resources to continuously improve California's educational system, its physical and information infrastructure, its quality of life, and promote shared prosperity.

SEC. 2. Part 18.3 (commencing with Section 38061) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 18.3. CALIFORNIA COMMISSION ON TAX POLICY IN THE NEW ECONOMY

38061. This part is known and may be cited as the ''California Commission on Tax Policy in the New Economy.''

38062. The California Commission on Tax Policy in the New Economy is hereby created.

38063. The commission shall be comprised as follows:

(a) Nine voting members of the commission, of which three members shall be public members representing business, three members shall be public members representing local government, and three members shall be at-large members who may represent various segments of the public, including, but not limited to, academia, organized labor, and public interest groups.

(1) The Governor shall appoint five members, taking into consideration the importance of bipartisan representation of public members. The Governor shall designate one of the public members as Chair of the Commission.

(2) The Senate Rules Committee shall appoint two members, including one upon recommendation of the minority party.

(3) The Speaker of the Assembly shall appoint two members, including one upon recommendation of the minority party.

(b) Ex officio nonvoting members shall include all of the following:

(1) The Executive Officer of the Franchise Tax Board, or a designee.

(2) The Chair of the State Board of Equalization, or a designee.

(3) The Director of Employment Development, or a designee.

(4) The Chair of the California Public Utilities Commission, or a designee.

(5) The Director of Finance, or a designee.

(6) The Controller, or a designee.

(7) A public member of the California Economic Strategy Panel to be appointed by the Secretary of Trade and Commerce.

(8) The Chair of the Senate Committee on Revenue and Taxation, or a designee.

(9) The Chair of the Assembly Committee on Revenue and Taxation, or a designee.

38064. The commission may form additional technical assistance workgroups, including experts from government, academia, and the private sector, and interested public stakeholders, as necessary to complete its work.

38065. The commission shall do all of the following:

(a) Identify all the key stakeholders in the new economy and invite them into the commission's process.

(b) Develop a comprehensive agenda of goals and a roadmap of all critical issues that ought to be addressed in achieving a workable, flexible, and balanced long-term solution.

(c) Undertake the process of conducting public hearings and in the correct phases address each of these critical issues and seek to arrive at a comprehensive conclusion with respect to the smartest public policy taxation of the Internet.

(d) Examine and describe all aspects of the current and future California economy, with special attention to the influence of new technologies, including, but not limited to, the use of the Internet in electronic commerce.

(e) Assess the impact of those predictions about the economy on the sources and size of projected public revenues, with special attention to the needs of local government.

(f) Study and make recommendations regarding specific elements of the California system of state and local taxes, including, but not limited to, the following:

(1) With respect to the sales and use tax, the commission shall do all of the following:

(A) Examine the impact that economic transitions have had on the sales and use tax.

(B) Determine whether uneven treatment with respect to the method of sales, the type of commodity, and the location of the buyer and the seller may occur and the extent to which they may have led to tax-generated distortions in economic decisionmaking and disadvantages for certain businesses and economic sectors.

(C) Examine the extent to which the allocation and distribution of sales and use taxes impact local decisionmaking on land use and whether alternative methods may be more appropriate.

(2) With respect to telecommunications taxes, the commission shall examine the status of the current telecommunications tax system, including state telecommunications surcharges, utility user charges, and franchise fees, in light of changes in the competitive and technological features of the industry. This examination should focus on the complexity, consistency, and efficiency of the system.

(3) With respect to income taxes, the commission shall do both of the following:

(A) Examine recent trends in the collection of bank and corporation taxes and the impact that a transitioning economy has had on those trends.

(B) Examine the relationship between the bank and corporation tax and the personal income tax and whether trends in the new economy will have an impact on that relationship.

(4) With respect to property taxes, the commission shall do both of the following:

(A) Investigate the revenue repercussions for local government in assessment of real property, assuming changes in the trends of real property versus personal property utilization.

(B) Examine the effects of electronic commerce activity on land-based enterprises in the new economy and evaluate the impact on local economic development approaches and consider what new tools could be used.

38066. The commission shall submit an interim report to the Governor and the Legislature not later than 12 months from the date of the commission's first public meeting and a final report with recommendations not later than 24 months from the date of the commission's first public meeting.

38067. 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.

CHAPTER 620

An act to add Section 141 to the Penal Code, relating to peace officers.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 141 is added to the Penal Code, to read:

141. (a) Except as provided in subdivision (b), any person who knowingly, willfully, and intentionally alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter will be wrongfully produced as genuine or true upon any trial, proceeding, or inquiry whatever, is guilty of a misdemeanor.

(b) Any peace officer who knowingly, willfully, and intentionally alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter will be wrongfully produced as genuine or true upon any trial, proceeding, or inquiry whatever, is guilty of a felony punishable by two, three, or five years in the state prison.

(c) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

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 621

An act to amend Section 272 of the Penal Code, relating to minors.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 272 of the Penal Code is amended to read:

272. (a) (1) Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a

lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years.

(2) For purposes of this subdivision, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.

(b) (1) An adult stranger who is 21 years of age or older, who knowingly contacts or communicates with a minor who is 12 years of age or younger, who knew or reasonably should have known that the minor is 12 years of age or younger, for the purpose of persuading and luring, or transporting, or attempting to persuade and lure, or transport, that minor away from the minor's home or from any location known by the minor's parent, legal guardian, or custodian, to be a place where the minor is located, for any purpose, without the express consent of the minor's parent or legal guardian, and with the intent to avoid the consent of the minor's parent or legal guardian, is guilty of an infraction or a misdemeanor.

(2) This subdivision shall not apply in an emergency situation.

(3) As used in this subdivision, the following terms are defined to mean:

(A) ''Emergency situation'' means a situation where the minor is threatened with imminent bodily harm, emotional harm, or psychological harm.

(B) ''Contact'' or ''communication'' includes, but is not limited to, the use of a telephone or the Internet, as defined in Section 17538 of the Business and Professions Code.

(C) ''Stranger'' means a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization, as defined in subdivision (e) of Section 6600 of the Welfare and Institutions Code.

(D) ''Express consent'' means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(5) This section shall not be interpreted to criminalize acts of persons contacting minors within the scope and course of their employment, or status as a volunteer of a recognized civic or charitable organization.

(6) This section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

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 622

An act to add Section 52.3 to the Civil Code, relating to civil rights.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 52.3 is added to the Civil Code, to read:

52.3. (a) No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California.

(b) The Attorney General may bring a civil action in the name of the people to obtain appropriate equitable and declaratory relief to eliminate the pattern or practice of conduct specified in subdivision (a), whenever the Attorney General has reasonable cause to believe that a violation of subdivision (a) has occurred.

CHAPTER 623

An act to add Section 11105.75 to the Penal Code, relating to criminal background information.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 11105.75 is added to the Penal Code, to read:

11105.75. (a) (1) If, in the course of performing a criminal history background investigation for an agency or entity statutorily authorized to receive a criminal history, the Department of Justice determines that it appears that the applicant has criminal history record information that the requesting agency is statutorily authorized to receive, but the identity of the applicant cannot be verified with fingerprints, the department shall provide a copy of the criminal history record to the requesting agency or entity but shall note any entries as to which the identity of the subject has not been fingerprint verified.

(2) The department shall compare all available identifying characteristics of the applicant with those that appear in the criminal history information before responding to the requesting agency or entity with conviction disposition information that has not been fingerprint verified.

(b) If an agency or entity denies a license, certificate, or employment based upon information received from the department that is not fingerprint verified, the agency or entity shall notify the applicant of its decision and that he or she may challenge the identification. In that case, the applicant may appeal the decision of the agency or entity on the grounds that the applicant is not the person so identified.

(c) Neither the department nor any of its employees or any requesting agency or entity shall be liable to any applicant for misidentifications made pursuant to this section.

SEC. 2. This act shall become operative on July 1, 2002.

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

CHAPTER 624

An act to add and repeal Chapter 6.5 (commencing with Section 13855) of Title 6 of Part 4 to the Penal Code, relating to firearms.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Chapter 6.5 (commencing with Section 13855) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 6.5. STUDY OF SECTIONS 12021 AND 12021.1 VIOLATIONS AND ENFORCEMENT

13855. (a) The Department of Justice shall study and report to the Legislature by January 1, 2002, statewide information identifiable by county, about the enforcement of Sections 12021 and 12021.1, including, but not limited to the following, for the period of at least three years prior to January 1, 2001:

(1) The number of arrests for violations of Section 12021 or 12021.1, identified by the number of arrests that were solely for a violation of Section 12021 or 12021.1, and the number of arrests for violations of Section 12021 or 12021.1 and other violations of law.

(2) The number of prosecutions and convictions that were for violations of Section 12021 or 12021.1, identified by the number of prosecutions and convictions that were solely for a violation of Section 12021 or 12021.1, and the number of prosecutions and convictions for violations of Section 12021 or 12021.1 and other violations of law.

(3) The number of persons identified pursuant to paragraphs (1) and (2) who had previous convictions for serious or violent felonies, and the number sentenced pursuant to Sections 1170.12, 12022.5, 12022.53, or subdivisions (b) to (i), inclusive, of Section 667.

(4) The number and lengths, identified as lower, middle, and upper term, of sentences imposed where the sentence imposed for a violation of Section 12021 or 12021.1 was the principal term of imprisonment, and the number of convictions where the sentence imposed for a violation of Section 12021 or 12021.1 was a subordinate term of imprisonment.

(5) The number of persons who were granted probation or suspension of the imposition of sentence for a violation of Section 12021 or 12021.1.

(6) The length of time between the arrest for a violation of Section 12021 or 12021.1 and the previous felony conviction that resulted in the offender being subject to Section 12021 or 12021.1.

(b) This chapter 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.

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CHAPTER 625

An act to repeal and add Section 2914 of the Business and Professions Code, and to add Sections 94729.3 and 94814.5 to the Education Code, relating to psychology.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 2914 of the Business and Professions Code is repealed.

SEC. 2. Section 2914 is added to the Business and Professions Code, to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional school.

No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under

penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board.

The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) Show by evidence satisfactory to the board that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

(f) Show by evidence satisfactory to the board that he or she has completed coursework, in spousal or partner abuse assessment, detection, and intervention. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement applies to applicants who begin graduate training on or after January 1, 1995. This requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) An applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if all of the following are true:

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

(2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94721 of the Education Code.

(3) The approved institution is not a franchise institution, as defined in Section 94729.3 of the Education Code.

SEC. 3. Section 94729.3 is added to the Education Code, to read:

94729.3. ''Franchise institution'' means a newly established location of an existing approved institution offering postsecondary education services leading to candidacy for psychology licensure that bears the same name as the existing approved institution and about which either of the following is true:

(a) The newly established location is owned or financially controlled by an individual or individuals other than those who own or financially control the existing approved institution.

(b) The newly established institution is administered by an individual or individuals other than those persons who administer the existing approved institution.

SEC. 4. Section 94814.5 is added to the Education Code, to read:

94814.5. (a) Each institution subject to this article, and offering a doctoral degree in psychology designed to prepare students for a license to practice psychology in California, shall provide to each prospective student in professional psychology a California Unaccredited Graduate Psychology School Disclosure Form that discloses all of the following information:

(1) The number of graduates of the institution who have taken, and the number of graduates of the institution who have passed, the psychology written licensing examination administered by the California Board of Psychology during the immediately preceding four years.

(2) The number of graduates of the institution who have taken, and the number of graduates of the institution who have passed, the psychology oral licensing examination administered by the California Board of Psychology during the immediately preceding four years.

(3) The number of graduates of the institution who have become licensed psychologists in the State of California during the immediately preceding four years.

(4) The practice limitations imposed on graduates of the institution who hold doctoral degrees in psychology. This paragraph shall be in 14-point boldface type, and shall read as follows:

''Prospective students should be aware that as a graduate of an unaccredited school of psychology you may face restrictions that could include difficulty in obtaining licensing in a state outside of California and difficulty in obtaining a teaching job or appointment at an accredited college or university. It may also be difficult to work as a psychologist for some federal government or other public agencies, or to be appointed to the medical staff of a hospital. Some major managed care organizations, insurance companies, or preferred provider organizations may not reimburse individuals whose degrees are from unaccredited schools. Graduates of unaccredited schools may also face limitations in their abilities to be listed in the 'National Register of Health Service

Providers' or to hold memberships in other major organizations of psychologists.''

(b) Annually, each institution shall provide to the bureau a copy of the disclosure form signed by each student who has enrolled in any course during the year that may be used in the graduate education leading to a doctoral degree in psychology that qualifies the graduate as a candidate for the psychology licensure examination.

(c) If an institution fails to satisfy any of the requirements of this section, the bureau may revoke the institution's approval to operate or to offer the psychology degree that leads to licensure as a psychologist, or may impose either an administrative penalty or a civil penalty not to exceed ten thousand dollars ($10,000) per noted violation.

CHAPTER 626

An act to amend Sections 12512, 12520, and 12544 of the Government Code, and to amend Section 13023 of the Penal Code, relating to the Attorney General.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 12512 of the Government Code is amended to read:

12512. The Attorney General shall attend the Supreme Court and prosecute or defend all causes to which the State, or any State officer is a party in his or her official capacity.

SEC. 2. Section 12520 of the Government Code is amended to read:

12520. (a) The Attorney General may not employ special counsel in any case except pursuant to either of the following:

(1) Article 3 (commencing with Section 12540).

(2) Article 4 (commencing with Section 12550).

(b) Subdivision (a) does not affect the right of the Attorney General to employ counsel to represent, or to assist in the representation of, a state agency as defined in Section 11000, including the Attorney General or the Department of Justice, or to represent a state employee if that representation meets any of the standards set forth in paragraph (3), (5), (7), (8), (9), or (10) of subdivision (b) of Section 19130.

SEC. 3. Section 12544 of the Government Code is amended to read:

12544. If an escheat proceeding is prosecuted by the staff of the Attorney General's office, the Attorney General shall recover, by

presenting a claim to the Controller, all costs and charges of commencing and prosecuting the suit, from the funds so escheated. Those claims shall be paid from the Abandoned Property Account in the Unclaimed Property Fund and credited to and in augmentation of any support appropriation of the Attorney General. The costs and charges may not in any case exceed 10 per cent of the sum or sums actually escheated to the State in those suits.

SEC. 4. Section 13023 of the Penal Code is amended to read:

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, national origin, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

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 627

An act to amend Section 4501.1 of, and to add Section 243.9 to, the Penal Code, and to add Section 1768.85 to the Welfare and Institutions Code, relating to prisoners.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 243.9 is added to the Penal Code, to read:

243.9. (a) Every person confined in any local detention facility who commits a battery by gassing upon the person of any peace officer, as

defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or employee of the local detention facility is guilty of aggravated battery and shall be punished by imprisonment in a county jail or by imprisonment in the state prison for two, three, or four years.

(b) For purposes of this section, ''gassing'' means intentionally placing or throwing, or causing to be placed or thrown, upon the person of another, any human excrement or other bodily fluids or bodily substances or any mixture containing human excrement or other bodily fluids or bodily substances that results in actual contact with the person's skin or membranes.

(c) The person in charge of the local detention facility shall use every available means to immediately investigate all reported or suspected violations of subdivision (a), including, but not limited to, the use of forensically acceptable means of preserving and testing the suspected gassing substance to confirm the presence of human excrement or other bodily fluids or bodily substances. If there is probable cause to believe that the inmate has violated subdivision (a), the chief medical officer of the local detention facility, or his or her designee, may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a violation of this section, order the inmate to receive an examination or test for hepatitis or tuberculosis or both hepatitis and tuberculosis on either a voluntary or involuntary basis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer in order to ensure that further hepatitis or tuberculosis transmission does not occur. These decisions shall be consistent with an occupational exposure as defined by the Center for Disease Control and Prevention. The results of any examination or test shall be provided to the officer or employee who has been subject to a reported or suspected violation of this section. Nothing in this subdivision shall be construed to otherwise supersede the operation of Title 8 (commencing with Section 7500). Any person performing tests, transmitting test results, or disclosing information pursuant to this section shall be immune from civil liability for any action taken in accordance with this section.

(d) The person in charge of the local detention facility shall refer all reports for which there is probable cause to believe that the inmate has violated subdivision (a) to the local district attorney for prosecution.

(e) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

SEC. 2. Section 4501.1 of the Penal Code is amended to read:

4501.1. (a) Every person confined in the state prison who commits a battery by gassing upon the person of any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or employee of the state prison is guilty of aggravated battery and shall be

punished by imprisonment in a county jail or by imprisonment in the state prison for two, three, or four years. Every state prison inmate convicted of a felony under this section shall serve his or her term of imprisonment as prescribed in Section 4501.5.

(b) For purposes of this section, ''gassing'' means intentionally placing or throwing, or causing to be placed or thrown, upon the person of another, any human excrement or other bodily fluids or bodily substances or any mixture containing human excrement or other bodily fluids or bodily substances that results in actual contact with the person's skin or membranes.

(c) The warden or other person in charge of the state prison shall use every available means to immediately investigate all reported or suspected violations of subdivision (a), including, but not limited to, the use of forensically acceptable means of preserving and testing the suspected gassing substance to confirm the presence of human excrement or other bodily fluids or bodily substances. If there is probable cause to believe that the inmate has violated subdivision (a), the chief medical officer of the state prison or his or her designee, may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a violation of this section, order the inmate to receive an examination or test for hepatitis or tuberculosis or both hepatitis and tuberculosis on either a voluntary or involuntary basis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer in order to ensure that further hepatitis or tuberculosis transmission does not occur. These decisions shall be consistent with an occupational exposure as defined by the Center for Disease Control and Prevention. The results of any examination or test shall be provided to the officer or employee who has been subject to a reported or suspected violation of this section. Nothing in this subdivision shall be construed to otherwise supersede the operation of Title 8 (commencing with Section 7500). Any person performing tests, transmitting test results, or disclosing information pursuant to this section shall be immune from civil liability for any action taken in accordance with this section.

(d) The warden or other person in charge of the state prison shall refer all reports for which there is probable cause to believe that the inmate has violated subdivision (a) to the local district attorney for prosecution.

(e) The Department of Corrections shall report to the Legislature, by January 1, 2000, its findings and recommendations on gassing incidents at the state prison and the medical testing authorized by this section. The report shall include, but not be limited to, all of the following:

(1) The total number of gassing incidents at each state prison facility up to the date of the report.

(2) The disposition of each gassing incident, including the administrative penalties imposed, the number of incidents that are prosecuted, and the results of those prosecutions, including any penalties imposed.

(3) A profile of the inmates who commit the aggravated batteries, including the number of inmates who have one or more prior serious or violent felony convictions.

(4) Efforts that the department has taken to limit these incidents, including staff training and the use of protective clothing and goggles.

(5) The results and costs of the medical testing authorized by this section.

(f) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

SEC. 3. Section 1768.85 is added to the Welfare and Institutions Code, to read:

1768.85. (a) Every person confined under the jurisdiction of the Department of the Youth Authority who commits a battery by gassing upon the person of any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or employee of the institution is guilty of aggravated battery and shall be punished by imprisonment in a county jail or by imprisonment in the state prison for two, three, or four years.

(b) For purposes of this section, ''gassing'' means intentionally placing or throwing, or causing to be placed or thrown, upon the person of another, any human excrement or other bodily fluids or bodily substances or any mixture containing human excrement or other bodily fluids or bodily substances that results in actual contact with the person's skin or membranes.

(c) The person in charge of the institution under the jurisdiction of the Department of the Youth Authority shall use every available means to immediately investigate all reported or suspected violations of subdivision (a), including, but not limited to, the use of forensically acceptable means of preserving and testing the suspected gassing substance to confirm the presence of human excrement or other bodily fluids or bodily substances. If there is probable cause to believe that a ward has violated subdivision (a), the chief medical officer of the institution under the jurisdiction of the Department of the Youth Authority, or his or her designee, may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a violation of this section, order the ward to receive an examination or test for hepatitis or tuberculosis or both hepatitis and tuberculosis on either a voluntary or involuntary basis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer in order to ensure that further hepatitis or tuberculosis

transmission does not occur. These decisions shall be consistent with an occupational exposure as defined by the Center for Disease Control and Prevention. The results of any examination or test shall be provided to the officer or employee who has been subject to a reported or suspected violation of this section. Nothing in this subdivision shall be construed to otherwise supersede the operation of Title 8 (commencing with Section 7500). Any person performing tests, transmitting test results, or disclosing information pursuant to this section shall be immune from civil liability for any action taken in accordance with this section.

(d) The person in charge of the institution under the jurisdiction of the Department of the Youth Authority shall refer all reports for which there is probable cause to believe that the inmate has violated subdivision (a) to the local district attorney for prosecution.

(e) The Department of the Youth Authority shall report to the Legislature, by January 1, 2003, its findings and recommendations on gassing incidents at the department's facilities and the medical testing authorized by this section. The report shall include, but not be limited to, all of the following:

(1) The total number of gassing incidents at each youth correctional facility up to the date of the report.

(2) The disposition of each gassing incident, including the administrative penalties imposed, the number of incidents that are prosecuted, and the results of those prosecutions, including any penalties imposed.

(3) A profile of the wards who commit the batteries by gassing, including the number of wards who have one or more prior serious or violent felony convictions.

(4) Efforts that the department has taken to limit these incidents, including staff training and the use of protective clothing and goggles.

(5) The results and costs of the medical testing authorized by this section.

(f) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

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.

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CHAPTER 628

An act to amend Section 502.01 of the Penal Code, relating to crimes.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 502.01 of the Penal Code is amended to read:

502.01. (a) As used in this section:

(1) ''Property subject to forfeiture'' means any property of the defendant that is illegal telecommunications equipment as defined in subdivision (g) of Section 502.8, or a computer, computer system, or computer network, and any software or data residing thereon, if the telecommunications device, computer, computer system, or computer network was used in committing a violation of, or conspiracy to commit a violation of, Section 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, 537e, 593d, 593e, or 646.9, or was used as a repository for the storage of software or data obtained in violation of those provisions. Forfeiture shall not be available for any property used solely in the commission of an infraction. If the defendant is a minor, it also includes property of the parent or guardian of the defendant.

(2) ''Sentencing court'' means the court sentencing a person found guilty of violating or conspiring to commit a violation of Section 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, or, in the case of a minor, found to be a person described in Section 602 of the Welfare and Institutions Code because of a violation of those provisions, the juvenile court.

(3) ''Interest'' means any property interest in the property subject to forfeiture.

(4) ''Security interest'' means an interest that is a lien, mortgage, security interest, or interest under a conditional sales contract.

(5) ''Value'' has the following meanings:

(A) When counterfeit items of computer software are manufactured or possessed for sale, the ''value'' of those items shall be equivalent to the retail price or fair market price of the true items that are counterfeited.

(B) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to,

counterfeited computer diskettes, instruction manuals, or licensing envelopes, the ''value'' of those components of computer software packages shall be equivalent to the retail price or fair market price of the number of completed computer software packages that could have been made from those components.

(b) The sentencing court shall, upon petition by the prosecuting attorney, at any time following sentencing, or by agreement of all parties, at the time of sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this section. At the forfeiture hearing, the prosecuting attorney shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to forfeiture. The prosecuting attorney may retain seized property that may be subject to forfeiture until the sentencing hearing.

(c) Prior to the commencement of a forfeiture proceeding, the law enforcement agency seizing the property subject to forfeiture shall make an investigation as to any person other than the defendant who may have an interest in it. At least 30 days before the hearing to determine whether the property should be forfeited, the prosecuting agency shall send notice of the hearing to any person who may have an interest in the property that arose before the seizure.

A person claiming an interest in the property shall file a motion for the redemption of that interest at least 10 days before the hearing on forfeiture, and shall send a copy of the motion to the prosecuting agency and to the probation department.

If a motion to redeem an interest has been filed, the sentencing court shall hold a hearing to identify all persons who possess valid interests in the property. No person shall hold a valid interest in the property if, by a preponderance of the evidence, the prosecuting agency shows that the person knew or should have known that the property was being used in violation of, or conspiracy to commit a violation of, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, and that the person did not take reasonable steps to prevent that use, or if the interest is a security interest, the person knew or should have known at the time that the security interest was created that the property would be used for a violation.

(d) If the sentencing court finds that a person holds a valid interest in the property, the following provisions shall apply:

(1) The court shall determine the value of the property.

(2) The court shall determine the value of each valid interest in the property.

(3) If the value of the property is greater than the value of the interest, the holder of the interest shall be entitled to ownership of the property upon paying the court the difference between the value of the property and the value of the valid interest.

If the holder of the interest declines to pay the amount determined under paragraph (2), the court may order the property sold and designate the prosecutor or any other agency to sell the property. The designated agency shall be entitled to seize the property and the holder of the interest shall forward any documentation underlying the interest, including any ownership certificates for that property, to the designated agency. The designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(4) If the value of the property is less than the value of the interest, the designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(e) If the defendant was a minor at the time of the offense, this subdivision shall apply to property subject to forfeiture that is the property of the parent or guardian of the minor.

(1) The prosecuting agency shall notify the parent or guardian of the forfeiture hearing at least 30 days before the date set for the hearing.

(2) The computer or telecommunications device shall not be subject to forfeiture if the parent or guardian files a signed statement with the court at least 10 days before the date set for the hearing that the minor shall not have access to any computer or telecommunications device owned by the parent or guardian for two years after the date on which the minor is sentenced.

(3) If the minor is convicted of a violation of Section 470, 470a, 472, 476, 480, or subdivision (b) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, within two years after the date on which the minor is sentenced, and the violation involves a computer or telecommunications device owned by the parent or guardian, the original property subject to forfeiture, and the property involved in the new offense, shall be subject to forfeiture notwithstanding paragraph (2).

(4) Notwithstanding paragraph (1), (2), or (3), or any other provision of this chapter, if a minor's parent or guardian makes full restitution to the victim of a crime enumerated in this chapter in an amount or manner determined by the court, the forfeiture provisions of this chapter do not apply to the property of that parent or guardian if the property was located in the family's primary residence during the commission of the crime.

(f) Notwithstanding any other provision of this chapter, the court may exercise its discretion to deny forfeiture where the court finds that the

convicted defendant, or minor adjudicated to come within the jurisdiction of the juvenile court, is not likely to use the property otherwise subject to forfeiture for future illegal acts.

(g) If the defendant is found to have the only valid interest in the property subject to forfeiture, it shall be distributed as follows:

(1) First, to the victim, if the victim elects to take the property as full or partial restitution for injury, victim expenditures, or compensatory damages, as defined in paragraph (1) of subdivision (e) of Section 502. If the victim elects to receive the property under this paragraph, the value of the property shall be determined by the court and that amount shall be credited against the restitution owed by the defendant. The victim shall not be penalized for electing not to accept the forfeited property in lieu of full or partial restitution.

(2) Second, at the discretion of the court, to one or more of the following agencies or entities:

(A) The prosecuting agency.

(B) The public entity of which the prosecuting agency is a part.

(C) The public entity whose officers or employees conducted the investigation resulting in forfeiture.

(D) Other state and local public entities, including school districts.

(E) Nonprofit charitable organizations.

(h) If the property is to be sold, the court may designate the prosecuting agency or any other agency to sell the property at auction. The proceeds of the sale shall be distributed by the court as follows:

(1) To the bona fide or innocent purchaser or encumbrancer, conditional sales vendor, or mortgagee of the property up to the amount of his or her interest in the property, if the court orders a distribution to that person.

(2) The balance, if any, to be retained by the court, subject to the provisions for distribution under subdivision (g).

SEC. 1.5. Section 502.01 of the Penal Code is amended to read:

502.01. (a) As used in this section:

(1) ''Property subject to forfeiture'' means any property of the defendant that is illegal telecommunications equipment as defined in subdivision (g) of Section 502.8, or a computer, computer system, or computer network, and any software or data residing thereon, if the telecommunications device, computer, computer system, or computer network was used in committing a violation of, or a conspiracy to commit a violation of, Section 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, 537e, 593d, 593e, or 646.9, or was used as a repository for the storage of software or data obtained in violation of those provisions. Forfeiture

shall not be available for any property used solely in the commission of an infraction. If the defendant is a minor, it also includes property of the parent or guardian of the defendant.

(2) ''Sentencing court'' means the court sentencing a person found guilty of violating or conspiring to commit a violation of Section 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, or, in the case of a minor, found to be a person described in Section 602 of the Welfare and Institutions Code because of a violation of those provisions, the juvenile court.

(3) ''Interest'' means any property interest in the property subject to forfeiture.

(4) ''Security interest'' means an interest that is a lien, mortgage, security interest, or interest under a conditional sales contract.

(5) ''Value'' has the following meanings:

(A) When counterfeit items of computer software are manufactured or possessed for sale, the ''value'' of those items shall be equivalent to the retail price or fair market price of the true items that are counterfeited.

(B) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the ''value'' of those components of computer software packages shall be equivalent to the retail price or fair market price of the number of completed computer software packages that could have been made from those components.

(b) The sentencing court shall, upon petition by the prosecuting attorney, at any time following sentencing, or by agreement of all parties, at the time of sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this section. At the forfeiture hearing, the prosecuting attorney shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to forfeiture. The prosecuting attorney may retain seized property that may be subject to forfeiture until the sentencing hearing.

(c) (1) Prior to the commencement of a forfeiture proceeding, the law enforcement agency seizing the property subject to forfeiture shall make an investigation as to any person other than the defendant who may have an interest in it. At least 30 days before the hearing to determine whether the property should be forfeited, the prosecuting agency shall send notice of the hearing to any person who may have an interest in the property that arose before the seizure.

(2) A person claiming an interest in the property shall file a motion for the redemption of that interest at least 10 days before the hearing on forfeiture, and shall send a copy of the motion to the prosecuting agency and to the probation department.

(3) If a motion to redeem an interest has been filed, the sentencing court shall hold a hearing to identify all persons who possess valid interests in the property. No person shall hold a valid interest in the property if, by a preponderance of the evidence, the prosecuting agency shows that the person knew or should have known that the property was being used in violation of, or conspiracy to commit a violation of, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, and that the person did not take reasonable steps to prevent that use, or if the interest is a security interest, the person knew or should have known at the time that the security interest was created that the property would be used for a violation.

(d) If the sentencing court finds that a person holds a valid interest in the property, the following provisions shall apply:

(1) The court shall determine the value of the property.

(2) The court shall determine the value of each valid interest in the property.

(3) If the value of the property is greater than the value of the interest, the holder of the interest shall be entitled to ownership of the property upon paying the court the difference between the value of the property and the value of the valid interest.

If the holder of the interest declines to pay the amount determined under paragraph (2), the court may order the property sold and designate the prosecutor or any other agency to sell the property. The designated agency shall be entitled to seize the property and the holder of the interest shall forward any documentation underlying the interest, including any ownership certificates for that property, to the designated agency. The designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(4) If the value of the property is less than the value of the interest, the designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(e) If the defendant was a minor at the time of the offense, this subdivision shall apply to property subject to forfeiture that is the property of the parent or guardian of the minor.

(1) The prosecuting agency shall notify the parent or guardian of the forfeiture hearing at least 30 days before the date set for the hearing.

(2) The computer or telecommunications device shall not be subject to forfeiture if the parent or guardian files a signed statement with the court at least 10 days before the date set for the hearing that the minor shall not have access to any computer or telecommunications device owned by the parent or guardian for two years after the date on which the minor is sentenced.

(3) If the minor is convicted in an adult prosecution or is adjudicated to be a person to come within the jurisdiction of the juvenile court for the commission of a violation of, or a conspiracy to commit a violation of, a section specified in paragraph (1) of subdivision (a), within two years after the date on which the minor was subject to the disposition of the juvenile court, and the violation involves a computer or telecommunications device owned by the parent or guardian, the original property subject to forfeiture, and the property involved in the new offense, shall be subject to forfeiture notwithstanding paragraph (2).

(4) Notwithstanding paragraph (3), if the minor is convicted in an adult prosecution or is adjudicated to be a person to come within the jurisdiction of the juvenile court for the commission of a violation of, or a conspiracy to commit a violation of, this section or a section specified in paragraph (1) of subdivision (a), within two years after the date on which the minor was subject to the disposition of the juvenile court for an offense under this section, the property involved in the prior offense shall not be subject to forfeiture if the parent made restitution to the victim of the first offense and the second offense was not committed with a telecommunications device or computer located in the parent's primary residence.

(5) Notwithstanding paragraph (1), (2), or (3), or any other provision of this chapter, if a minor's parent or guardian makes full restitution to the victim of a crime enumerated in this chapter in an amount or manner determined by the court, the forfeiture provisions of this chapter do not apply to the property of that parent or guardian if the property was located in the family's primary residence during the commission of the crime.

(f) Notwithstanding any other provision of this chapter, the court may exercise its discretion to deny forfeiture where the court finds that the convicted defendant, or minor adjudicated to come within the jurisdiction of the juvenile court, is not likely to use the property otherwise subject to forfeiture for future illegal acts.

(g) If the defendant is found to have the only valid interest in the property subject to forfeiture, it shall be distributed as follows:

(1) First, to the victim, if the victim elects to take the property as full or partial restitution for injury, victim expenditures, or compensatory damages, as defined in paragraph (1) of subdivision (e) of Section 502. If the victim elects to receive the property under this paragraph, the value

of the property shall be determined by the court and that amount shall be credited against the restitution owed by the defendant. The victim shall not be penalized for electing not to accept the forfeited property in lieu of full or partial restitution.

(2) Second, at the discretion of the court, to one or more of the following agencies or entities:

(A) The prosecuting agency.

(B) The public entity of which the prosecuting agency is a part.

(C) The public entity whose officers or employees conducted the investigation resulting in forfeiture.

(D) Other state and local public entities, including school districts.

(E) Nonprofit charitable organizations.

(h) If the property is to be sold, the court may designate the prosecuting agency or any other agency to sell the property at auction. The proceeds of the sale shall be distributed by the court as follows:

(1) To the bona fide or innocent purchaser or encumbrancer, conditional sales vendor, or mortgagee of the property up to the amount of his or her interest in the property, if the court orders a distribution to that person.

(2) The balance, if any, to be retained by the court, subject to the provisions for distribution under subdivision (g).

(i) (1) A claimant of seized property alleged in the complaint of forfeiture may move the court for immediate release of the property. The motion shall be in writing and shall be served upon the agency that seized the property. The court shall grant the motion after making all of the following findings:

(A) The claimant has a valid possessory interest in the property.

(B) Continued possession by the government will cause substantial hardship to the claimant.

(C) The hardship to the claimant outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the forfeiture proceedings.

(2) Paragraph (1) shall not apply to property that is owned by a person charged with the underlying criminal offense for which the property is subject to forfeiture.

(j) (1) A law enforcement agency shall be liable for the real damages caused by the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of a law enforcement officer employed by that agency, if that property was seized for the purpose of forfeiture under this section.

(2) A law enforcement agency shall not be liable under paragraph (1) to a person who is convicted of the underlying criminal offense for which the property was subject to forfeiture under this section.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 502.01 of the Penal Code proposed by both this bill and SB 2106. 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 502.01 of the Penal Code, and (3) this bill is enacted after SB 2106, in which case Section 1 of this bill shall not become operative.

CHAPTER 629

An act to amend Sections 26720.9, 26721, 26721.1, 26722, 26725, 26726, 26728, 26730, 26731, 26734, 26736, 26738, 26742, 26743, 26746, 26746.1, and 26750 of, and to add Section 26721.2 to, the Government Code, relating to sheriff's fees.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 26720.9 of the Government Code is amended to read:

26720.9. Notwithstanding any other provision of law, the amounts set forth in Sections 26721, 26721.1, 26725, 26728, 26734, 26742, and 26743 shall be increased to thirty dollars ($30) on January 1, 2001.

SEC. 2. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served shall be the amount described in Section 26720.9, and there shall be no additional fee for substitute service when substitute service is authorized.

However, no fee shall be charged for serving an emergency protective order, protective order, or restraining order issued pursuant to Division 10 of the Family Code (the Domestic Violence Prevention Act) on a respondent who is in custody.

In any case where property has been levied upon and, pursuant to the levy, a copy of the writ of execution and a notice of levy are required by statute to be served either personally or by mail upon the judgment debtor or other person, no fee shall be charged for that service.

SEC. 3. Section 26721.1 of the Government Code is amended to read:

26721.1. In an action for unlawful detainer, the fee for service of a summons, complaint, and prejudgment claim of right to possession pursuant to Section 415.46 of the Code of Civil Procedure shall be the

amount described in Section 26720.9 for all occupants not named in the summons. The fee is not refundable.

SEC. 3.5. Section 26721.2 is added to the Government Code, to read:

26721.2. For any action commenced in the superior court, the fee for the service of the summons, the complaint for which the summons is issued, and all other documents or notices required to be served with the summons and complaint, is twenty-eight dollars ($28).

SEC. 4. Section 26722 of the Government Code is amended to read:

26722. The fee for serving, executing, or processing any writ or order where the levying officer is required to take immediate possession of the property levied upon is eighty-five dollars ($85).

SEC. 5. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, writ of execution, writ of sale, or order on real estate, as to the initial service or posting of a continuous unbroken parcel or tract, and the fee for serving a record owner other than the defendant shall be the amount described in Section 26720.9.

SEC. 6. Section 26726 of the Government Code is amended to read:

26726. (a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale shall be one hundred ten dollars ($110) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during these periods, the fee for the additional keeper or keepers shall be the same as fixed, but, in no event shall any one keeper receive more than one hundred eighty-five dollars ($185) during any 24-hour period when so employed.

(b) In addition to the fees provided by Section 26721, the fee for maintaining custody of property under levy by the use of a keeper is thirty dollars ($30) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive thirty dollars ($30) when, pursuant to Section 26738, a levying officer prepares a not-found return.

SEC. 7. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under a writ of attachment, execution, or sale or order of court shall be the amount described in Section 26720.9.

SEC. 8. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is eighty-five dollars ($85).

SEC. 9. Section 26731 of the Government Code is amended to read:

26731. Five dollars ($5) of any fee collected by the sheriff's civil division or marshal under Sections 26721, 26722, 26725, 26726, 26728,

26730, 26733.5, 26734, 26736, 26738, 26742, 26743, 26744, and 26750 of the Government Code shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 10. Section 26734 of the Government Code is amended to read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding it under attachment in the same action shall be the amount described in Section 26720.9.

SEC. 11. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice prior to its completion shall be twenty-eight dollars ($28). The fee provided by this section shall not be charged where a charge is made pursuant to any other section of this article in attempting to serve or execute the process or notice.

SEC. 12. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found at the address specified shall be twenty-eight dollars ($28).

SEC. 13. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument shall be the amount described in Section 26720.9.

SEC. 14. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, shall be the amount described in Section 26720.9.

SEC. 15. Section 26746 of the Government Code is amended to read:

26746. In addition to any other fees required by law, a processing fee of eight dollars ($8) shall be assessed for each disbursement of money collected under a writ of attachment, execution, possession, or sale, but excluding any action by the district attorney's office for the establishment or enforcement of a child support obligation. The fee shall be collected from the judgment debtor in addition to, and in the same manner as, the moneys collected under the writ. All proceeds of this fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the depositor.

Seventy percent of the moneys in the special fund shall be expended to supplement the county's cost for vehicle fleet replacement and equipment for the sheriff and the marshal. Thirty percent of the moneys in the special fund shall be expended to supplement the county's cost of vehicle and equipment maintenance for the sheriff and the marshal, and for the county's expenses in administering the funds.

No fee shall be charged where the only disbursement is the return of the judgment creditor's deposit for costs.

SEC. 16. Section 26746.1 of the Government Code is amended to read:

26746.1. A fifteen dollar ($15) fee shall be assessed by the sheriff or marshal for certification of correction on each citation that requires inspection for proof of correction of any violation pursuant to Section 40616 of the Vehicle Code.

All proceeds of the fee shall be deposited in a special fund in the county treasury. A separate accounting of funds deposited shall be maintained for each depositor, and funds deposited shall be for the exclusive use of the sheriff's civil division or marshal.

Ninety-five percent of the moneys in the special fund shall be expended to supplement the costs of the depositor for the implementation, maintenance, and purchase of auxiliary equipment and furnishings for automated systems or other nonautomated operational equipment and furnishings deemed necessary by the sheriff's civil division or marshal. Five percent of the moneys in the special fund shall be used to supplement the expenses of the sheriff's civil division or marshal in administering the funds.

SEC. 17. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to the levy shall be twenty-five dollars ($25).

(b) Except as provided in Section 26746, no additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

CHAPTER 630

An act to amend Section 4904 of the Penal Code, and to add Section 17157 to the Revenue and Taxation Code, relating to indemnification.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 4904 of the Penal Code is amended to read:

4904. If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant did not, by any act or omission either intentionally or negligently, contribute to the bringing about of his or her arrest or conviction, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the State Board of Control shall report the facts of the case and its conclusions to the next Legislature of this state, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury; but the amount of the appropriation recommended shall be a sum equivalent to one hundred dollars ($100) per day of incarceration served subsequent to the claimant's conviction and that appropriation shall not be treated as gross income to the recipient under the provisions of the Revenue and Taxation Code.

SEC. 2. Section 17157 is added to the Revenue and Taxation Code, to read:

17157. Gross income shall not include any amount received in any taxable year by a claimant pursuant to Section 4904 of the Penal Code.

CHAPTER 631

An act to add Section 530.7 to the Penal Code, relating to identity theft.

[Approved by Governor September 24, 2000. Filed with
Secretary of State September 26, 2000.]

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

SECTION 1. Section 530.7 is added to the Penal Code, to read:

530.7. (a) In order for a victim of identity theft to be included in the data base established pursuant to subdivision (c), he or she shall submit to the Department of Justice a court order obtained pursuant to any provision of law a full set of fingerprints, and any other information prescribed by the department.

(b) Upon receiving information pursuant to subdivision (a), the Department of Justice shall verify the identity of the victim against any drivers license or other identification record maintained by the Department of Motor Vehicles.

(c) The Department of Justice shall establish and maintain a data base of individuals who have been victims of identity theft. The department shall provide a victim of identity theft or his or her authorized representative access to the data base in order to establish that the individual has been a victim of identity theft. Access to the data base shall be limited to criminal justice agencies, victims of identity theft, and individuals and agencies authorized by the victims.

(d) The Department of Justice shall establish and maintain a toll free number to provide access to information under subdivision (c).

(e) This section shall be operative September 1, 2001.

CHAPTER 632

An act to amend Section 99314 of, and to add Sections 99314.1 99314.2, and 99314.3 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 24, 2000. Filed with
Secretary of State September 26, 2000.]

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

SECTION 1. Section 99314 of the Public Utilities Code is amended to read:

99314. (a) From funds made available pursuant to subdivision (b) of Section 99312, an amount shall be allocated by the Controller to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board. The

allocation shall include an amount corresponding to each of the member agencies of the Altamont Commuter Express Authority and the Southern California Regional Rail Authority. The amount of funds allocated shall be based on the ratio of the total revenue of all the operators and the member agencies of the Altamont Commuter Express Authority and the Southern California Regional Rail Authority in the area under their respective jurisdictions during the prior fiscal year to the total revenue of all the operators in the state and the member agencies of the Altamont Commuter Express Authority and the member agencies of the Southern California Regional Rail Authority during the prior fiscal year.

(b) For purposes of this section and Section 99314.3, ''revenue'' means fare revenues and any other funds used by the operator for its transit operation, and the revenue that is derived from operating as a member of the authority pursuant to Section 99314.1, except federal and state funds which may only be used for transportation purposes and funds allocated pursuant to Section 99233. The revenue amount for each operator shall be determined from the annual report submitted to the Legislature by the Controller pursuant to Section 99243.5. The revenue amount for each member agency of the Altamont Commuter Express Authority and the Southern California Regional Rail Authority shall be determined by the revenues reported to the Controller by the respective authorities in accordance to subdivision (b) of Section 99314.1 and subdivision (b) of Section 99314.2, respectively.

SEC. 2. Section 99314.1 is added to the Public Utilities Code, to read:

99314.1. (a) For purposes of this section, the following terms have the following meanings:

(1) The ''Altamont Commuter Express Authority'' or the ''authority'' is the joint powers agency duly formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, by and between the Alameda Congestion Management Agency, the Santa Clara Valley Transportation Authority, and the San Joaquin Regional Rail Commission.

(2) ''Revenue'' means revenue, as defined in subdivision (b) of Section 99314, that is derived from operating as a member agency of the authority.

(b) The Altamont Commuter Express Authority shall report to the Controller, for each fiscal year, the ratio that the revenue of each member agency of the authority during the prior fiscal year bears to the total revenue of the authority during that fiscal year.

(c) (1) From funds made available pursuant to subdivision (b) of Section 99312, the Controller shall allocate to each member agency of the authority an amount that is based on the ratio provided under subdivision (b).

(2) The allocation set forth in paragraph (1) shall be in addition to any other allocation provided under this article.

(3) Allocations made under this section shall be used only for purposes authorized under this chapter.

SEC. 3. Section 99314.2 is added to the Public Utilities Code, to read:

99314.2. (a) For purposes of this section, the following terms have the following meanings:

(1) The ''Southern California Regional Rail Authority'' or the ''authority'' is that joint powers authority described in Section 14072 of the Government Code and includes any additional agencies that may join the authority under Section 14072.2 of that code.

(2) ''Revenue'' means revenue, as defined in subdivision (b) of Section 99314, that is derived from operating as a member agency of the authority.

(b) The Southern California Regional Rail Authority shall report to the Controller, on an annual basis, the ratio that the revenue of each member agency of the authority during the prior fiscal year bears to the total revenue of the authority during that fiscal year.

(c) (1) From funds made available pursuant to subdivision (b) of Section 99312, the Controller shall allocate to each member agency of the authority an amount that is based on the ratio provided under subdivision (b).

(2) The allocation set forth in paragraph (1) shall be in addition to any other allocation provided under this article.

(3) Allocations made under this section shall be used only for purposes authorized under this chapter.

SEC. 4. Section 99314.3 of the Public Utilities Code is amended to read:

99314.3. (a) The amount received by each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, pursuant to Section 99314 shall be allocated to the operators in the area of its jurisdiction.

(b) The amount of funds allocated by the Controller corresponding to each of the member agencies of the Altamont Commuter Express Authority and the member agencies of the Southern California Regional Rail Authority, pursuant to Section 99314, shall be allocated by the transportation planning agency having jurisdiction over the member agency's area, for purposes authorized in this chapter. The allocation shall be based on the ratio of the revenues of each of the member agencies and of all the operators during the prior fiscal year within the area of jurisdiction of the allocating agency, commission, or board as the case may be.

(c) The amount allocated to each operator pursuant to this section shall be based on the ratio of its revenue of all the operations and the member agencies of the Altamont Commuter Express Authority and the member agencies of the Southern California Rail Authority during the prior fiscal year to the total revenue of all the operators during the prior fiscal year within the area of jurisdiction of the allocating agency, commission, or board, as the case may be.

(d) For purposes of subdivision (a), the City and County of San Francisco with respect to its municipal railway system, the Alameda-Contra Costa Transit District, and the San Francisco Bay Area Rapid Transit District shall be considered one operator. The amount allocated to them as one operator shall be apportioned to each of them based on the ratio of its revenue to the sum of their revenues, excluding from the determination of that ratio the amount allocated to each of them pursuant to Section 29142.2.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 633

An act to add Section 832.25 to the Penal Code, relating to peace officers.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 832.25 is added to the Penal Code, to read:

832.25. (a) Notwithstanding any other provision of law, all welfare fraud investigators or inspectors who are appointed as peace officers pursuant to subdivision (a) of Section 830.35 on or after January 1, 2001, shall attend and complete a specialized investigators basic course approved by the Commission on Peace Officer Standards and Training within one year of being hired as a welfare investigator or inspector. Any welfare fraud investigator or inspector appointed prior to January 1, 2001, shall not be required to attend and complete the training required by this section, provided that he or she has been continuously employed

in that capacity prior to January 1, 2001, by the county that made the appointment.

(b) Any investigator or inspector who possesses a valid basic peace officer certificate as awarded by the Commission on Peace Officer Standards and Training or who has successfully completed the regular basic course certified by the Commission on Peace Officer Standards and Training basic course within three years prior to appointment shall be exempt from the training requirements of subdivision (a).

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 634

An act to amend Section 502 of the Penal Code, relating to computer crimes.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 502 of the Penal Code is amended to read:

502. (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

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

(1) ''Access'' means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) ''Computer network'' means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) ''Computer program or software'' means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) ''Computer services'' includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) ''Computer system'' means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) ''Data'' means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) ''Supporting documentation'' includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) ''Injury'' means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.

(9) ''Victim expenditure'' means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(10) ''Computer contaminant'' means any set of computer instructions that are designed to modify, damage, destroy, record, or

transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(11) ''Internet domain name'' means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed four hundred dollars ($400), by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars ($400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars ($1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars ($5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000), by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars ($1,000).

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data may bring a civil action against any person convicted under this section for compensatory damages, including any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees to a prevailing party.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of one hundred dollars ($100).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

SEC. 1.5. Section 502 of the Penal Code is amended to read:

502. (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

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

(1) ''Access'' means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) ''Computer network'' means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) ''Computer program or software'' means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) ''Computer services'' includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) ''Computer system'' means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) ''Data'' means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) ''Supporting documentation'' includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) ''Injury'' means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.

(9) ''Victim expenditure'' means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(10) ''Computer contaminant'' means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(11) ''Internet domain name'' means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed four hundred dollars ($400), by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars ($400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars ($1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars ($5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000), by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and

including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.

(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of one hundred dollars ($100).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 502 of the Penal Code proposed by both this bill and AB 2727. 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 502 of the Penal Code, and (3) this bill is enacted after AB 2727, in which case Section 1 of this bill shall not become operative.

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

CHAPTER 635

An act to amend Section 502 of the Penal Code, relating to computer crime.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 502 of the Penal Code is amended to read:

502. (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

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

(1) ''Access'' means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) ''Computer network'' means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) ''Computer program or software'' means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) ''Computer services'' includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) ''Computer system'' means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) ''Data'' means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) ''Supporting documentation'' includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) ''Injury'' means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access.

(9) ''Victim expenditure'' means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(10) ''Computer contaminant'' means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(11) ''Internet domain name'' means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed four hundred dollars ($400), by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars ($400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6), (7), or (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars ($5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000), by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.

(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of one hundred dollars ($100).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

SEC. 2. Section 502 of the Penal Code is amended to read:

502. (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

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

(1) ''Access'' means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) ''Computer network'' means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) ''Computer program or software'' means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) ''Computer services'' includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) ''Computer system'' means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) ''Data'' means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) ''Supporting documentation'' includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer,

computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) ''Injury'' means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.

(9) ''Victim expenditure'' means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(10) ''Computer contaminant'' means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(11) ''Internet domain name'' means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer

programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed four hundred dollars ($400), by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars ($400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars ($1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars ($5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars ($5,000), by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not one thousand dollars.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.

(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of one hundred dollars ($100).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

SEC. 3. Section 2 of this bill incorporates amendments to Section 502 of the Penal Code proposed by both this bill and AB 2232. 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 502 of the Penal Code, and (3) this bill is enacted after AB 2232, in which case Section 1 of this bill shall not become operative.

CHAPTER 636

An act to amend Sections 10229, 10232.2, 10232.25, and 10232.5 of the Business and Professions Code, to amend Sections 1363, 2924, 2924g, and 2943 of the Civil Code, and to amend Sections 17312 and 17320 of the Financial Code, relating to real estate.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 10229 of the Business and Professions Code is amended to read:

10229. Any transaction that involves the sale of or offer to sell a series of notes secured directly by an interest in the same real property, or the sale of undivided interests in a note secured directly by real property equivalent to a series transaction, shall comply with all of the following, except as provided in paragraph (4) of subdivision (i), the terms ''sale'' and ''offer to sell,'' as used in this section, shall have the same meaning as set forth in Section 25017 of the Corporations Code and include the acts of negotiating and arranging the transaction:

(a) A notice in the following form and containing the following information shall be filed with the commissioner within 30 days after the first transaction and within 30 days of any material change in the information required in the notice:

TO: Real Estate Commissioner
Mortgage Loan Section
2201 Broadway
Sacramento, CA 95818

This notice is filed pursuant to Section 10229 of the Business and Professions Code.

( ) Original Notice ( ) Amended Notice

1. Name of Broker conducting transaction under Section 10229:

_____

2. Broker license identification number: _____

3. List the month the fiscal year ends: _____

4. Broker's telephone number: _____

5. Firm name (if different from ''1''):

_____

6. Street address (main location):

_____
and Street City State ZIP Code

7. Mailing address (if different from ''6''):

_____

8. Servicing Agent: Identify by name, address, and telephone number the person or entity who will act as the servicing agent in transactions pursuant to Section 10229 (including the undersigned Broker if that is the case):

_____

_____

9. Total number of multilender notes arranged: _____

10. Total number of interests sold to investors on the multilender's notes: _____

11. Inspection of trust account (before answering this question, review the provisions of paragraph (3) of subdivision (j) of Section 10229).

CHECK ONLY ONE OF THE FOLLOWING:

( ) The undersigned Broker is (or expects to be) required to file reports of inspection of its trust account(s) with the Real Estate Commissioner pursuant to paragraph (3) of subdivision (j) of Section 10229.

Amount of Multilender Payments Collected Last Fiscal Quarter: _____

Total Number of Investors Due Payments Last Fiscal Quarter: _____

( ) The undersigned Broker is NOT (or does NOT expect to be) required to file reports of inspection of its trust account(s) with the Real Estate Commissioner pursuant to paragraph (3) of subdivision (j) of Section 10229.

12. Signature. The contents of this notice are true and correct.

_____ _____

Date Type Name of Broker

_____

Signature of Broker or of Designated Officer of Corporate Broker

Type Name of Person(s) Signing This Notice

NOTE: AN AMENDED NOTICE MUST BE FILED BY THE BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE IN THE INFORMATION REQUIRED TO BE SET FORTH HEREIN.

(b) All advertising employed for transactions under this section shall (1) show the name of the broker and (2) comply with Section 10235 of the Business and Professions Code and Sections 260.302 and 2848 of Title 10 of the California Code of Regulations. Brokers and their agents are cautioned that a reference to a prospective investor that a transaction is conducted under this section may be deemed misleading or deceptive if this representation may reasonably be construed by the investor as an implication of merit or approval of the transaction.

(c) The real property directly securing the notes or interests is located in this state, the note or notes are not by their terms subject to subordination to any subsequently created deed of trust upon the real property, and the note or notes are not promotional notes secured by liens on separate parcels of real property in one subdivision or in contiguous subdivisions. For purposes of this subdivision, a promotional note means a promissory note secured by a trust deed, executed on unimproved real property or executed after construction of an improvement of the property but before the first purchase of the property as so improved, or executed as a means of financing the first purchase of the property as so improved, that is subordinate, or by its terms may become subordinate, to any other trust deed on the property. However, the term ''promotional note'' does not include either of the following:

(1) A note that was executed in excess of three years prior to being offered for sale.

(2) A note secured by a first trust deed on real property in a subdivision that evidences a bona fide loan made in connection with the financing of the usual cost of the development in a residential, commercial, or industrial building or buildings on the property under a written agreement providing for the disbursement of the loan funds as costs are incurred or in relation to the progress of the work and providing for title insurance ensuring the priority of the security as against mechanic's and materialmen's liens or for the final disbursement of at least 10 percent of the loan funds after the expiration of the period for the filing of mechanic's and materialmen's liens.

(d) (1) The notes or interests are sold by or through a real estate broker, as principal or agent. At the time the interests are originally sold or assigned, neither the broker nor an affiliate of the broker shall have an interest as owner, lessor, or developer of the property securing the

loan, or any contractual right to acquire, lease, or develop the property securing the loan. This provision does not prohibit a broker from conducting the following transactions if, in either case, the disclosure statement furnished by the broker pursuant to subdivision (k) discloses the interest of the broker or affiliate in the transaction and the circumstances under which the broker or affiliate acquired the interest:

(A) A transaction in which the broker or an affiliate of the broker is acquiring the property pursuant to a foreclosure under, or sale pursuant to, a deed of trust securing a note for which the broker is the servicing agent or that the broker sold to the holder or holders.

(B) A transaction in which the broker or an affiliate of the broker is reselling from inventory property acquired by the broker pursuant to a foreclosure under, or sale pursuant to, a deed of trust securing a note for which the broker is the servicing agent or that the broker sold to the holder or holders.

(2) For the purposes of this subdivision, the following definitions apply:

(A) ''Broker'' means a person licensed as a broker under this part.

(B) ''Affiliate'' means a person controlled by, controlling, or under common control with, the broker.

(e) (1) The notes or interests shall not be sold to more than 10 persons, each of whom meets one or both of the qualifications of income or net worth set forth below and signs a statement, which shall be retained by the broker for four years, conforming to the following:

Transaction Identifier: _____

Name of Purchaser: _____ Date: _____

Check either one of the following, if true:

( ) My investment in the transaction does not exceed 10% of my net worth, exclusive of home, furnishings, and automobiles.

( ) My investment in the transaction does not exceed 10% of my adjusted gross income for federal income tax purposes for my last tax year or, in the alternative, as estimated for the current year.

_____

Signature

(2) The number of offerees shall not be considered for the purposes of this section.

(3) A husband and wife and their dependents, and an individual and his or her dependents, shall be counted as one person.

(4) A retirement plan, trust, business trust, corporation, or other entity that is wholly owned by an individual and the individual's spouse or the individual's dependents, or any combination thereof, shall not be counted separately from the individual, but the investments of these entities shall be aggregated with those of the individual for the purposes of the statement required by paragraph (1). If the investments of any entities are required to be aggregated under this subdivision, the adjusted gross income or net worth of these entities may also be aggregated with the net worth, income, or both, of the individual.

(5) The ''institutional investors'' enumerated in subdivision (i) of Section 25102 or subdivision (c) of Section 25104 of the Corporations Code, or in a rule adopted pursuant thereto, shall not be counted.

(f) The notes or interests of the purchasers shall be identical in their underlying terms, including the right to direct or require foreclosure, rights to and rate of interest, and other incidents of being a lender, and the sale to each purchaser pursuant to this section shall be upon the same terms, subject to adjustment for the face or principal amount or percentage interest purchased and for interest earned or accrued. This subdivision does not preclude different selling prices for interests to the extent that these differences are reasonably related to changes in the market value of the loan occurring between the sales of these interests. The interest of each purchaser shall be recorded.

(g) (1) Except as provided in paragraph (2), the aggregate principal amount of the notes or interests sold, together with the unpaid principal amount of any encumbrances upon the real property senior thereto, shall not exceed the following percentages of the current market value of the real property, as determined in writing by the broker or appraiser pursuant to Section 10232.6, plus the amount for which the payment of principal and interest in excess of the percentage of current market value is insured for the benefit of the holders of the notes or interests by an insurer admitted to do business in this state by the Insurance Commissioner:

(A)	Single–family residence, owner occupied	80%
(B)	Single–family residence, not owner occupied	75%
(C)	Commercial and income–producing properties	65%
(D)	Single–family residentially zoned lot or parcel which has installed offsite improvements including drainage, curbs, gutters, sidewalks, paved roads, and utilities as mandated by the political subdivision having jurisdiction over the lot or parcel	65%

(E) Land that has been zoned for (and if required, approved for subdivision as) commercial or residential development . . . 50%

(F) Other real property 35%

(2) The percentage amounts specified in paragraph (1) may be exceeded when and to the extent that the broker determines that the encumbrance of the property in excess of these percentages is reasonable and prudent considering all relevant factors pertaining to the real property. However, in no event shall the aggregate principal amount of the notes or interests sold, together with the unpaid principal amount of any encumbrances upon the property senior thereto, exceed 80 percent of the current fair market value of improved real property or 50 percent of the current fair market value of unimproved real property, except in the case of a single-family zoned lot or parcel as defined in paragraph (1), which shall not exceed 65 percent of the current fair market value of that lot or parcel, plus the amount insured as specified in paragraph (1). A written statement shall be prepared by the broker that sets forth the material considerations and facts that the broker relies upon for his or her determination, which shall be retained as a part of the broker's record of the transaction. Either a copy of the statement or the information contained therein shall be included in the disclosures required pursuant to subdivision (k).

(3) A copy of the appraisal or the broker's evaluation shall be delivered to each purchaser. The broker shall advise purchasers of their right to receive a copy. For purposes of this paragraph, ''appraisal'' means a written estimate of value based upon the assembling, analyzing, and reconciling of facts and value indicators for the real property in question. A broker shall not purport to make an appraisal unless the person so employed is qualified on the basis of special training, preparation, or experience.

(h) The documentation of the transaction shall require that (1) a default upon any interest or note is a default upon all interests or notes and (2) the holders of more than 50 percent of the record beneficial interests of the notes or interests may govern the actions to be taken on behalf of all holders in accordance with Section 2941.9 of the Civil Code in the event of default or foreclosure for matters that require direction or approval of the holders, including designation of the broker, servicing agent, or other person acting on their behalf, and the sale, encumbrance, or lease of real property owned by the holders resulting from foreclosure or receipt of a deed in lieu of foreclosure. The terms called for by this subdivision may be included in the deed of trust, in the assignment of

interests, or in any other documentation as is necessary or appropriate to make them binding on the parties.

(i) (1) The broker shall not accept any purchase or loan funds or other consideration from a prospective lender or purchaser, or directly or indirectly cause the funds or other consideration to be deposited in an escrow or trust account, except as to a specific loan or note secured by a deed of trust that the broker owns, is authorized to negotiate, or is unconditionally obligated to buy.

(2) All funds received by the broker from the purchasers or lenders shall be handled in accordance with Section 10145 for disbursement to the persons thereto entitled upon recordation of the interests of the purchasers or lenders in the note and deed of trust. No provision of this section shall be construed as modifying or superseding applicable law regulating the escrowholder in any transaction or the handling of the escrow account.

(3) The books and records of the broker or servicing agent, or both, shall be maintained in a manner that readily identifies transactions under this section and the receipt and disbursement of funds in connection with these transactions.

(4) If required by paragraph (3) of subdivision (j), the review by the independent certified public accountant shall include a sample of transactions, as reflected in the records of the trust account required pursuant to paragraph (1) of subdivision (j), and the bank statements and supporting documents. These documents shall be reviewed for compliance with this section with respect to the handling and distribution of funds. The sample shall be selected at random by the accountant from all these transactions and shall consist of the following: (A) three sales made or 5 percent of the sales made pursuant to this section during the period for which the examination is conducted, whichever is greater, and (B) 10 payments processed or 2 percent of payments processed under this section during the period for which the examination is conducted, whichever is greater. The transaction that constitutes a ''sale,'' for purposes of this subdivision, is the series of transactions by which a series of notes of a maker, or the interests in the note of a maker, are sold or issued to their various purchasers under this section, including all receipts and disbursements in that process of funds received from the purchasers or lenders. The transaction that constitutes a ''payment,'' for the purposes of this subdivision, is the receipt of a payment from the person obligated on the note or from some other person on behalf of the person so obligated, including the broker or servicing agent, and the distribution of that payment to the persons entitled thereto. If a payment involves an advance paid by the broker or servicing agent as the result of a dishonored check, the inspection shall identify the source of funds from which the payment was made or, in the

alternative, the steps that are reasonably necessary to determine that there was not a disbursement of trust funds. The accountant shall inspect for compliance with the following specific provisions of this section: paragraphs (1), (2), and (3) of subdivision (i) and paragraphs (1) and (2) of subdivision (j).

(5) Within 30 days of the close of the period for which the report is made, or within any additional time as the commissioner may in writing allow in a particular case, the accountant shall forward to the broker or servicing agent, as the case may be, and to the commissioner, the report of the accountant, stating that the inspection was performed in accordance with this section, listing the sales and the payments examined, specifying the nature of the deficiencies, if any, noted by the accountant with respect to each sale or payment, together with any further information as the accountant may wish to include, such as corrective steps taken with respect to any deficiency so noted, or stating that no deficiencies were observed. If the broker meets the threshold criteria of Section 10232, the report of the accountant shall be submitted as part of the quarterly reports required under Section 10232.25.

(j) The notes or interests shall be sold subject to a written agreement that obligates a licensed real estate broker, or a person exempted from the licensing requirement for real estate brokers under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, to act as agent for the purchasers or lenders to service the note or notes and deed of trust, including the receipt and transmission of payments and the institution of foreclosure proceedings in the event of a default. A copy of this servicing agreement shall be delivered to each purchaser. The broker shall offer to the lenders or purchasers the services of the broker or one or more affiliates of the broker, or both, as servicing agent for each transaction conducted pursuant to this section. The agreement shall require all of the following:

(1) (A) That payments received on the note or notes be deposited immediately to a trust account maintained in accordance with this section and with the provisions for trust accounts of licensed real estate brokers contained in Section 10145 and Article 15 (commencing with Section 2830.1) of Chapter 6 of Title 10 of the California Code of Regulations.

(B) That payments deposited pursuant to subparagraph (A) shall not be commingled with the assets of the servicing agent or used for any transaction other than the transaction for which the funds are received.

(2) That payments received on the note or notes shall be transmitted to the purchasers or lenders pro rata according to their respective interests within 25 days after receipt thereof by the agent. If the source for the payment is not the maker of the note, the agent shall inform the purchasers or lenders of the source for payment. A broker or servicing

agent who transmits to the purchaser or lenders the broker's or servicing agent's own funds to cover payments due from the borrower but unpaid as a result of a dishonored check may recover the amount of the advances from the trust fund when the past due payment is received. However, this section does not authorize the broker, servicing agent, or any other person to issue, or to engage in any practice constituting, any guarantee or to engage in the practice of advancing payments on behalf of the borrower.

(3) If the broker, directly or through an affiliate, is the servicing agent for notes or interests sold pursuant to this section upon which the payments due during any period of three consecutive months in the aggregate exceed one hundred twenty-five thousand dollars ($125,000) or the number of persons entitled to the payments exceeds 120, the trust account or accounts of that broker or affiliate shall be inspected by an independent certified public accountant at no less than three-month intervals during the time the volume is maintained. Within 30 days after the close of the period for which the review is made, the report of the accountant shall be forwarded as provided in paragraph (5) of subdivision (i). If the broker is required to file an annual report pursuant to subdivision (n) or Section 10232.2, the quarterly report pursuant to this subdivision need not be filed for the last quarter of the year for which the annual report is made. For the purposes of this subdivision, an affiliate of a broker is any person controlled by, controlling, or under common control with the broker.

(4) Unless the servicing agent will receive notice pursuant to Section 2924b of the Civil Code, the servicing agent shall file a request for notice of default upon any prior encumbrances and promptly notify the purchasers or lenders of any default on the prior encumbrances or on the note or notes subject to the servicing agreement.

(5) The servicing agent shall promptly forward copies of the following to each purchaser or lender:

(A) Any notice of trustee sale filed on behalf of the purchasers or lenders.

(B) Any request for reconveyance of the deed of trust received on behalf of the purchasers or lenders.

(k) The broker shall disclose in writing to each purchaser or lender the material facts concerning the transaction on a disclosure form adopted or approved by the commissioner pursuant to Section 10232.5, subject to the following:

(1) The disclosure form shall include a description of the terms upon which the note and deed of trust are being sold, including the terms of the undivided interests being offered therein, including the following:

(A) In the case of the sale of an existing note:

(i) The aggregate sale price of the note.

(ii) The percent of the premium over or discount from the principal balance plus accrued but unpaid interest.

(iii) The effective rate of return to the purchasers if the note is paid according to its terms.

(iv) The name and address of the escrowholder for the transaction.

(v) A description of, and the estimated amount of, each cost payable by the seller in connection with the sale and a description of, and the estimated amount of, each cost payable by the purchasers in connection with the sale.

(B) In the case of the origination of a note:

(i) The name and address of the escrowholder for the transaction.

(ii) The anticipated closing date.

(iii) A description of, and the estimated amount of, each cost payable by the borrower in connection with the loan and a description of, and the estimated amount of, each cost payable by the lenders in connection with the loan.

(2) A copy of the written statement or information contained therein, as required by paragraph (2) of subdivision (g), shall be included in the disclosure form.

(3) Any interest of the broker or affiliate in the transaction, as described in subdivision (d), shall be included with the disclosure form.

(4) When the particular circumstances of a transaction make information not specified in the disclosure form material or essential to keep the information provided in the form from being misleading, and the other information is known to the broker, the other information shall also be provided by the broker.

(*l*) The broker or servicing agent shall furnish any purchaser of a note or interest, upon request, with the names and addresses of the purchasers of the other notes or interests in the loan.

(m) No agreement in connection with a transaction covered by this section shall grant to the real estate broker, the servicing agent, or any affiliate of the broker or agent the option or election to acquire the interests of the purchasers or lenders or to acquire the real property securing the interests. This subdivision shall not prohibit the broker or affiliate from acquiring the interests, with the consent of the purchasers or lenders whose interests are being purchased, or the property, with the consent of the purchasers or lenders, if the consent is given at the time of the acquisition.

(n) Each broker who conducts transactions under this section and meets the criteria of paragraph (3) of subdivision (j) shall file with the commissioner an annual report of a review of its trust account. The report shall be prepared and filed in accordance with subdivision (a) of Section 10232.2 and the rules and procedures thereunder of the commissioner. That report shall cover the broker's transactions under this section and,

if the broker also meets the threshold criteria set forth in Section 10232, the broker's transactions subject to that section shall be included as well.

(o) Each broker conducting transactions pursuant to this section who meets the criteria of paragraph (3) of subdivision (j) shall file with the commissioner a report of the transactions that is prepared in accordance with subdivision (c) of Section 10232.2. If the broker also meets the threshold criteria of Section 10232, the report shall include the transactions subject to that section as well. This report shall be confidential pursuant to subdivision (f) of Section 10232.2.

(p) The jurisdiction of the Commissioner of Corporations under the Corporate Securities Law of 1968 shall be neither limited nor expanded by this section. Nothing in this section shall be construed to supersede or restrict the application of the Corporate Securities Law of 1968. A transaction under this section shall not be construed to be a transaction involving the issuance of securities subject to authorization by the Real Estate Commissioner under subdivision (e) of Section 25100 of the Corporations Code.

(q) Nothing in this section shall be construed to change the agency relationships between the parties where they exist or limit in any manner the fiduciary duty of brokers to borrowers, lenders, and purchasers of notes or interests in transactions subject to this section.

SEC. 2. Section 10232.2 of the Business and Professions Code is amended to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the Department of Real Estate within 90 days after the end of the broker's fiscal year or within any additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

(1) The receipt and disposition of all funds of others to be applied to the making of loans and the purchasing of promissory notes or real property sales contracts.

(2) The receipt and disposition of all funds of others in connection with the servicing by the broker of the accounts of owners of promissory notes and real property sales contracts including installment payments and loan or contract payoffs by obligors.

(3) A statement as of the end of the fiscal year which shall include an itemized trust fund accounting of the broker and confirmation that the

trust funds are on deposit in an account or accounts maintained by the broker in a financial institution.

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within any additional time as the commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the department attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of all of the following aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

(1) Number and aggregate dollar amount of loan, trust deed sales and real property sales contract transactions negotiated.

(2) Number and aggregate dollar amount of promissory notes and contracts serviced by the broker or an affiliate of the broker.

(3) Number and aggregate dollar amount of late payment charges, prepayment penalties and other fees or charges collected and retained by the broker under servicing agreements with beneficiaries and obligees.

(4) Default and foreclosure experience in connection with promissory notes and contracts subject to servicing agreements between the broker and beneficiaries or obligees.

(5) Commissions received by the broker for services performed as agent in negotiating loans and sales of promissory notes and real property sales contracts.

(6) Aggregate costs and expenses as referred to in Section 10241 paid by borrowers to the broker.

(d) The commissioner shall adopt regulations prescribing the form and content of the report referred to in subdivision (c) with appropriate categories to afford a better understanding of the business conducted by the broker.

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a

broker fails to pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the above amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the above amount in any court of competent jurisdiction.

(f) The reports referred to in subdivisions (a) and (c) are exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code. The commissioner shall annually make and file as a public record, a composite of the annual reports and any comments thereon which are deemed to be in the public interest.

SEC. 3. Section 10232.25 of the Business and Professions Code is amended to read:

10232.25. (a) A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall, within 30 days after the end of each of the first three fiscal quarters of the broker's fiscal year, or within any additional time as the Real Estate Commissioner may allow for good cause, file with the commissioner a trust funds status report as of the last day of the fiscal quarter which shall include the following:

(1) A representation that the form and content of the trust account records of the broker are in compliance with the regulations of the commissioner.

(2) A representation that the broker's trust fund bank account is maintained in compliance with the regulations of the commissioner.

(3) A statement of the broker's aggregate accountability for trust funds.

(4) A report of trust funds in the broker's custody consisting of the trust account bank statements as of the bank's accounting date immediately preceding the end of the fiscal quarter and a schedule of withdrawals and deposits adjusting the account to its true balance as of the end of the fiscal quarter.

(5) A statement explaining any difference in amount between the broker's total accountability under paragraph (3) above and the adjusted trust account bank balance under paragraph (4) above.

(b) Each report made pursuant to subdivision (a) shall include the following:

(1) The name, address, and position or capacity of the person who prepared the report.

(2) A declaration under penalty of perjury by the broker that the information and representations in the report are true, complete, and correct to the best of the broker's knowledge and belief. The declaration in a report submitted on behalf of a corporate broker shall be signed by

a broker-officer through whom the corporation is licensed as a real estate broker and by the chief executive officer of the corporation if he or she is not the signing broker-officer.

(c) If a broker fails to file a report required under subdivision (a) within the time permitted, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the above amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the above amount in any court of competent jurisdiction.

(d) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, did not during a fiscal quarter, accept for the benefit of a person to whom the broker is trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the fiscal quarter or within any additional time as the commissioner may allow for good cause, a statement under penalty of perjury on a form provided by the department attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal quarter.

(e) Any real estate broker who engages in any of the activities specified in subdivision (d) or (e) of Section 10131, but who is not required by this section to file trust funds status reports with the commissioner and who is not exempt therefrom under subdivision (d), shall complete trust funds status reports in accordance with either (1) the requirements of subdivisions (a) and (b) applicable to trust funds status reports filed with the commissioner, or (2) the requirements established by the lender or note owner, if the lender or note owner does all of the following: (i) requires monthly reconciliations of trust account balances; (ii) requires annual, CPA-audited financial statements; and (iii) maintains a contractual right to audit the trust accounts held by the broker on behalf of the lender or note owner.

The broker shall retain all trust funds status reports prepared under this subdivision on file at the broker's offices, where they shall be subject to inspection by representatives of the commissioner upon 24 hours' notice.

SEC. 4. Section 10232.5 of the Business and Professions Code is amended to read:

10232.5. (a) If the real estate broker is performing acts described in subdivision (d) of Section 10131 in negotiating a loan to be secured by a lien on real property or on a business opportunity, the statement required to be given to the prospective lender shall include, but shall not necessarily be limited to, the following information:

(1) Address or other means of identification of the real property that is to be the security for the borrower's obligation.

(2) Estimated fair market value of the securing property as determined by an appraisal, a copy of which shall be provided to the lender. However, a lender may waive the requirement of an independent appraisal in writing, on a case-by-case basis, in which case, the real estate broker shall provide the broker's written estimated fair market value of the securing property, which shall include the objective data upon which the broker's estimate is based.

(3) Age, size, type of construction and a description of improvements to the property if contained in the appraisal or as represented to the broker by the prospective borrower.

(4) Identity, occupation, employment, income, and credit data about the prospective borrower or borrowers as represented to the broker by the prospective borrower or borrowers.

(5) Terms of the promissory note to be given to the lender.

(6) Pertinent information concerning all encumbrances which constitute liens against the securing property and, to the extent of actual knowledge of the broker, pertinent information about other loans that the borrower expects or anticipates will result in a lien being recorded against the property securing the promissory note to be created in favor of the prospective lender.

As used in this paragraph, actual knowledge with respect to any anticipated or expected loan, means knowledge gained by the broker through arranging that other loan or receipt of written notification of that other loan. In this regard, the broker shall also provide to the prospective lender the option to apply to purchase a title insurance policy or an endorsement to an existing title insurance policy covering the securing property, and a copy of a written loan application, and a credit report.

(7) Provisions for servicing of the loan, if any, including disposition of the late charge and prepayment penalty fees paid by the borrower.

(8) Detailed information concerning any proposed arrangement under which the prospective lender along with persons not otherwise associated with him or her will be joint beneficiaries or obligees.

(9) If the solicitation is subject to the provisions of Section 10231.2, a detailed statement of the intended use and disposition of the funds

being solicited including an explanation of the nature and extent of the benefits to be directly or indirectly derived by the broker.

(b) If the real estate broker is performing acts described in subdivision (e) of Section 10131 or in Section 10131.1 in negotiating the sale of a real property sales contract or promissory note secured directly or collaterally by a lien on real property, the statement required to be given to the prospective purchaser by Section 10232.4 shall include, but shall not necessarily be limited to, the following information:

(1) Address or other means of identification of the real property that is the security for the trustor's or vendee's obligation.

(2) Estimated fair market value of the real property as determined by an appraisal, a copy of which shall be provided to the prospective purchaser. However, a purchaser may waive the requirement of an independent appraisal in writing, on a case-by-case basis, in which case, the real estate broker shall provide the broker's written estimated fair market value of the securing property, which shall include the objective data upon which the broker's estimate is based.

(3) Age, size, type of construction and a description of improvements to the real property if known by the broker.

(4) Information available to the broker relative to the ability of the trustor or vendee to meet his or her contractual obligations under the note or contract including the trustor's or vendee's payment history under the note or contract.

(5) Terms of the contract or note including the principal balance owing.

(6) Provisions for servicing of the note or contract, if any, including disposition of late charge, prepayment penalty or other fees or charges paid by the trustor or vendee.

(7) Detailed information concerning any proposed arrangement under which the prospective purchaser along with persons not otherwise associated with him or her will be joint beneficiaries or obligees. In this regard, the broker shall also provide to the prospective purchaser the option to apply to purchase a title insurance policy or an endorsement to an existing title insurance policy covering the real property and, if available from the seller of the note or contract or from the original lender, a copy of a written loan application, and a credit report.

(8) A statement as to whether the dealer is acting as a principal or as an agent in the transaction with the prospective purchaser.

SEC. 5. 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.

(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 10 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. The board of directors of the association shall meet in executive session if requested by the member being disciplined.

If the board imposes discipline on a member, the board shall provide the member a written notification of the disciplinary action, by either personal delivery or first-class mail, within 15 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. 6. Section 2924 of the Civil Code is amended to read:

2924. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge. Where, by a mortgage created after July 27, 1917, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust made after July 27, 1917, of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which that mortgage or transfer is a security, the power shall not be exercised except where the mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or is made by a public utility subject to the provisions of the Public Utilities Act, until (a) the trustee, mortgagee, or beneficiary, or any of their authorized agents shall first file for record, in the office of the recorder of each county wherein the mortgaged or trust property or some part or parcel thereof is situated, a notice of default, identifying the mortgage or deed of trust by stating the name or names of the trustor or trustors and giving the book and page, or instrument number, if applicable, where the same is recorded or a description of the mortgaged or trust property and containing a statement that a breach of the obligation for which the mortgage or transfer in trust is security has occurred, and setting forth the nature of each breach actually known to the beneficiary and of his or her election to sell or cause to be sold the

property to satisfy that obligation and any other obligation secured by the deed of trust or mortgage that is in default, and where the default is curable pursuant to Section 2924c, containing the statement specified in paragraph (1) of subdivision (b) of Section 2924c; (b) not less than three months shall thereafter elapse; and (c) after the lapse of the three months the mortgagee, trustee or other person authorized to take the sale shall give notice of sale, stating the time and place thereof, in the manner and for a time not less than that set forth in Section 2924f. In performing acts required by this article, the trustee shall incur no liability for any good faith error resulting from reliance on information provided in good faith by the beneficiary regarding the nature and the amount of the default under the secured obligation, deed of trust, or mortgage. In performing the acts required by this article, a trustee shall not be subject to Title 1.6c (commencing with Section 1788) of Part 4. A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing of copies of notices or the publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the posting of copies of the notice of sale or the publication of a copy thereof shall constitute prima facie evidence of compliance with these requirements and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice. The mailing, publication, and delivery of notices as required herein, and the performance of the procedures set forth in this article, shall constitute privileged communications within Section 47. There is a rebuttable presumption that the beneficiary actually knew of all unpaid loan payments on the obligation owed to the beneficiary and secured by the deed of trust or mortgage subject to the notice of default. However, the failure to include an actually known default shall not invalidate the notice of sale and the beneficiary shall not be precluded from asserting a claim to this omitted default or defaults in a separate notice of default.

SEC. 7. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where the property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of the sale or pursuant to paragraph (1) of subdivision (c).

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale, (2) the first sale shall commence at the time published in the

notice of sale or immediately after the announcement of any postponement, and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the trustee shall follow that direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale at the discretion of the trustee, or upon instruction by the beneficiary to the trustee that the sale proceedings be postponed.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed more than three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction, or where stayed by operation of law, or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in subdivision (d) be deemed a postponement for purposes of this subdivision. In addition, one postponement by the trustee based upon a reasonable belief that a petition for bankruptcy has been filed shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. A public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be

the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than on the seventh day after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay (which required postponement of the sale), whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order expressly directs the conduct of the sale within that seven-day period. For purposes of this subdivision, the seven-day period shall not include the day on which the action is dismissed, or the day on which the injunction, restraining order, or stay expires or is terminated. If the sale had been scheduled to occur, but this subdivision precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.

(e) Notwithstanding the time periods established under subdivision (d), if postponement of a sale is based on a stay granted under Title 11 of the United States Code (Bankruptcy), the sale shall be conducted no sooner than the expiration of the stay granted under that title.

SEC. 8. Section 2943 of the Civil Code is amended to read:

2943. (a) As used in this section:

(1) ''Beneficiary'' means a mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees.

(2) ''Beneficiary statement'' means a written statement showing:

(A) The amount of the unpaid balance of the obligation secured by the mortgage or deed of trust and the interest rate, together with the total amounts, if any, of all overdue installments of either principal or interest, or both.

(B) The amounts of periodic payments, if any.

(C) The date on which the obligation is due in whole or in part.

(D) The date to which real estate taxes and special assessments have been paid to the extent the information is known to the beneficiary.

(E) The amount of hazard insurance in effect and the term and premium of that insurance to the extent the information is known to the beneficiary.

(F) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(G) The nature and, if known, the amount of any additional charges, costs, or expenses paid or incurred by the beneficiary which have become a lien on the real property involved.

(H) Whether the obligation secured by the mortgage or deed of trust can or may be transferred to a new borrower.

(3) ''Delivery'' means depositing or causing to be deposited in the United States mail an envelope with postage prepaid, containing a copy of the document to be delivered, addressed to the person whose name and address is set forth in the demand therefor. The document may also be transmitted by facsimile machine to the person whose name and address is set forth in the demand therefor.

(4) ''Entitled person'' means the trustor or mortgagor of, or his or her successor in interest in, the mortgaged or trust property or any part thereof, any beneficiary under a deed of trust, any person having a subordinate lien or encumbrance of record thereon, the escrowholder licensed as an agent pursuant to Division 6 (commencing with Section 17000) of the Financial Code, or the party exempt by virtue of Section 17006 of the Financial Code who is acting as the escrowholder.

(5) ''Payoff demand statement'' means a written statement, prepared in response to a written demand made by an entitled person or authorized agent, setting forth the amounts required as of the date of preparation by the beneficiary, to fully satisfy all obligations secured by the loan that is the subject of the payoff demand statement. The written statement shall include information reasonably necessary to calculate the payoff amount on a per diem basis for the period of time, not to exceed 30 days, during which the per diem amount is not changed by the terms of the note.

(b) (1) A beneficiary, or his or her authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or his or her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete copy of the note or other evidence of indebtedness with any modification thereto, and a beneficiary statement.

(2) A request pursuant to this subdivision may be made by an entitled person or his or her authorized agent at any time before, or within two months after, the recording of a notice of default under a mortgage or deed of trust, or may otherwise be made more than 30 days prior to the entry of the decree of foreclosure.

(c) A beneficiary, or his or her authorized agent, shall, on the written demand of an entitled person, or his or her authorized agent, prepare and deliver a payoff demand statement to the person demanding it within 21 days of the receipt of the demand. However, if the loan is subject to a recorded notice of default or a filed complaint commencing a judicial foreclosure, the beneficiary shall have no obligation to prepare and deliver this statement as prescribed unless the written demand is received prior to the first publication of a notice of sale or the notice of the first date of sale established by a court.

(d) (1) A beneficiary statement or payoff demand statement may be relied upon by the entitled person or his or her authorized agent in accordance with its terms, including with respect to the payoff demand

statement reliance for the purpose of establishing the amount necessary to pay the obligation in full. If the beneficiary notifies the entitled person or his or her authorized agent of any amendment to the statement, then the amended statement may be relied upon by the entitled person or his or her authorized agent as provided in this subdivision.

(2) If notification of any amendment to the statement is not given in writing, then a written amendment to the statement shall be delivered to the entitled person or his or her authorized agent no later than the next business day after notification.

(3) Upon the dates specified in subparagraphs (A) and (B) any sums that were due and for any reason not included in the statement or amended statement shall continue to be recoverable by the beneficiary as an unsecured obligation of the obligor pursuant to the terms of the note and existing provisions of law.

(A) If the transaction is voluntary, the entitled party or his or her authorized agent may rely upon the statement or amended statement upon the earlier of (i) the close of escrow, (ii) transfer of title, or (iii) recordation of a lien.

(B) If the loan is subject to a recorded notice of default or a filed complaint commencing a judicial foreclosure, the entitled party or his or her authorized agent may rely upon the statement or amended statement upon the acceptance of the last and highest bid at a trustee's sale or a court supervised sale.

(e) The following provisions apply to a demand for either a beneficiary statement or a payoff demand statement:

(1) If an entitled person or his or her authorized agent requests a statement pursuant to this section and does not specify a beneficiary statement or a payoff demand statement the beneficiary shall treat the request as a request for a payoff demand statement.

(2) If the entitled person or the entitled person's authorized agent includes in the written demand a specific request for a copy of the deed of trust or mortgage, it shall be furnished with the written statement at no additional charge.

(3) The beneficiary may, before delivering a statement, require reasonable proof that the person making the demand is, in fact, an entitled person or an authorized agent of an entitled person, in which event the beneficiary shall not be subject to the penalties of this section until 21 days after receipt of the proof herein provided for. A statement in writing signed by the entitled person appointing an authorized agent when delivered personally to the beneficiary or delivered by registered return receipt mail shall constitute reasonable proof as to the identity of an agent. Similar delivery of a policy of title insurance, preliminary report issued by a title company, original or photographic copy of a grant deed or certified copy of letters testamentary, guardianship, or

conservatorship shall constitute reasonable proof as to the identity of a successor in interest, provided the person demanding a statement is named as successor in interest in the document.

(4) If a beneficiary for a period of 21 days after receipt of the written demand willfully fails to prepare and deliver the statement, he or she is liable to the entitled person for all damages which he or she may sustain by reason of the refusal and, whether or not actual damages are sustained, he or she shall forfeit to the entitled person the sum of three hundred dollars ($300). Each failure to prepare and deliver the statement, occurring at a time when, pursuant to this section, the beneficiary is required to prepare and deliver the statement, creates a separate cause of action, but a judgment awarding an entitled person a forfeiture, or damages and forfeiture, for any failure to prepare and deliver a statement bars recovery of damages and forfeiture for any other failure to prepare and deliver a statement, with respect to the same obligation, in compliance with a demand therefor made within six months before or after the demand as to which the award was made. For the purposes of this subdivision, ''willfully'' means an intentional failure to comply with the requirements of this section without just cause or excuse.

(5) If the beneficiary has more than one branch, office, or other place of business, then the demand shall be made to the branch or office address set forth in the payment billing notice or payment book, and the statement, unless it specifies otherwise, shall be deemed to apply only to the unpaid balance of the single obligation named in the request and secured by the mortgage or deed of trust which is payable at the branch or office whose address appears on the aforesaid billing notice or payment book.

(6) The beneficiary may make a charge not to exceed sixty dollars ($60) for furnishing each required statement. The provisions of this paragraph shall not apply to mortgages or deeds of trust insured by the Federal Housing Administrator or guaranteed by the Administrator of Veterans Affairs.

(f) The preparation and delivery of a beneficiary statement or a payoff demand statement pursuant to this section shall not change a date of sale established pursuant to Section 2924g.

SEC. 9. Section 17312 of the Financial Code is amended to read:

17312. (a) Each person licensed pursuant to this division who is engaged in the business of receiving escrows specified in subdivision (c) shall participate as a member in Fidelity Corporation in accordance with this chapter and rules established by the board of directors of Fidelity Corporation. Fidelity Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law who is required to be a member under this subdivision.

(b) Upon filing a new application for licensure as required by subdivision (b) of Section 17213, persons required to be a member of Fidelity Corporation shall file a copy thereof concurrently with Fidelity Corporation, but no additional membership fee or deposit shall be required.

(c) The required membership in Fidelity Corporation shall be limited to those licensees who engage, in whole or in part, in the business of receiving escrows for deposit or delivery in the following types of transactions:

(1) Real property escrows, including, but not limited to, the sale, encumbrance, lease, exchange, or transfer of title, and loans or other obligations to be secured by a lien upon real property.

(2) Bulk sale escrows, including, but not limited to, the sale or transfer of title to a business entity and the transfer of liquor licenses or other types of business licenses or permits.

(3) Fund or joint control escrows, including, but not limited to, transactions specified in Section 17005.1, and contracts specified in Section 10263 of the Public Contract Code.

(4) The sale, transfer of title, or refinance escrows for manufactured homes or mobilehomes.

(5) Reservation deposits required under Article 2 (commencing with Section 11010) of Chapter 1 of Part 2 of Division 4 of the Business and Professions Code or by regulation of the Department of Real Estate to be held in an escrow account.

(6) Escrows for sale, transfer, modification, assignment, or hypothecation of promissory notes secured by deeds of trust.

(d) Coverage required to be provided by Fidelity Corporation under this chapter shall be provided to members only for loss of trust obligations with respect to those types of transactions specified in subdivision (c). Indemnity coverage for those types of transactions not specified in subdivision (c) shall be provided by escrow agents in accordance with Section 17203.1.

SEC. 10. Section 17320 of the Financial Code is amended to read:

17320. Fidelity Corporation shall establish and maintain the following funds for payment of claims and for payment of costs of administration: the membership fund, the operations fund, and the fidelity fund.

(a) An applicant or a licensee shall, at the time an application is filed for a license, pay to Fidelity Corporation a membership fee of three thousand dollars ($3,000) for each location for which a license is applied. If the application is denied, withdrawn, or abandoned, Fidelity Corporation may retain two hundred dollars ($200) from the membership fee to cover costs of administration.

(1) The membership fund shall be reserved for payment of claims which exceed the fidelity fund balance and for payment of extraordinary operational costs.

(2) Any member who, on the effective date of this section, has an account balance which exceeds the three thousand dollars ($3,000) membership fee times the number of its licensed locations shall be credited in a special reserve account for the excess amount. This balance shall be credited against future assessments made pursuant to subdivision (b) of Section 17321 in an amount not exceeding four hundred dollars ($400) per licensed location per year. Any member whose account balance is less than three thousand dollars ($3,000) times the number of its licensed locations shall, on or before December 1, 1988, pay to Fidelity Corporation an amount sufficient to allow the member's account to be maintained at three thousand dollars ($3,000) times the number of licensed locations. Fidelity Corporation shall provide each member with an accounting of the amounts being reserved for the members' membership account and amounts being held as a special reserve.

(3) The membership fee, less any unpaid assessments and related costs, shall be refunded to the member in accordance with Fidelity Corporation's bylaws not less than 30 months and no more than 36 months after the effective date of surrender of a license.

(4) Any member who does not engage in any escrow transactions pursuant to subdivision (c) of Section 17312 may terminate its membership in Fidelity Corporation by written notice to Fidelity Corporation and the Department of Corporations, as provided in the Fidelity Corporation's bylaws and rules and regulations. The membership fee, less any unpaid assessments and related costs, shall be refunded to the member in accordance with Fidelity Corporation's bylaws not less than 30 months and no more than 36 months after the effective date of the member's written request to terminate its membership in Fidelity Corporation. Before a licensee resumes those escrow transactions, it shall first be required to become a member of Fidelity Corporation, as provided in this subdivision.

(b) Fidelity Corporation shall prepare, prior to its fiscal year end, an estimated annual operational budget projecting the costs of operations and administration for the succeeding fiscal year, excluding the amount paid for claims and premiums paid for excess coverage bonding. The amount of the assessment shall be 150 percent of the budgetary projection. In succeeding years, the assessment shall be adjusted by adding the prior year's deficit or deducting unused surplus from the prior year.

(c) Fidelity Corporation shall establish a fidelity fund for the payment of claims and for the payment of the premium for the fidelity bond or

insurance policy, if any. All claims shall be paid from the fidelity fund, provided that, to the extent that the fidelity fund balance is not sufficient to pay claims, the claim shall be paid from the membership fund by charging each member's membership account a pro rata share of the excess.

(d) All interest earned on the membership fund and the operations fund shall be credited to the fidelity fund.

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 637

An act to amend Sections 3010, 3050.1, and 3051 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 3010 of the Vehicle Code is amended to read:

3010. Five members of the board shall constitute a quorum for the transaction of business, for the performance of any duty or the exercise of any power or authority of the board, except that three members of the board, who are not new motor vehicle dealers, shall constitute a quorum for the purposes of Article 4 (commencing with Section 3060) and the consideration of a petition pursuant to subdivision (c) of Section 3050 that involves a dispute between a franchisee and franchisor.

SEC. 2. Section 3050.1 of the Vehicle Code is amended to read:

3050.1. (a) In any proceeding, hearing, or in the discharge of any duties imposed under this chapter, the board, its secretary, or a hearing officer designated by the board may administer oaths, take depositions, certify to official acts, and issue subpoenas to compel attendance of witnesses and the production of books, records, papers, and other documents in any part of the state.

(b) For purposes of discovery, the board or its secretary may, if deemed appropriate and proper under the circumstances, authorize the

parties to engage in those discovery procedures as are provided for in civil actions in Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of Section 2030 of that code. Discovery shall be completed no later than 15 days prior to the commencement of the proceeding or hearing before the board. This subdivision shall apply only to those proceedings or hearings involving a petition or protest filed pursuant to subdivision (c) or (d) of Section 3050. The board, its secretary, or a hearing officer designated by the board may issue subpoenas to compel attendance at depositions of persons having knowledge of the acts, omissions or events which are the basis for the proceedings, as well as the production of books, records, papers and other documents.

SEC. 3. Section 3051 of the Vehicle Code is amended to read:

3051. This chapter does not apply to any person licensed as a transporter under Article 1 (commencing with Section 11700) or as a salesperson under Article 2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch or representative. This chapter does not apply to transactions involving ''mobilehomes,'' as defined in Section 18008 of the Health and Safety Code, ''recreational vehicles,'' as defined in Section 18010 of the Health and Safety Code, ''commercial coaches,'' as defined in Section 18001.8 of the Health and Safety Code, or off-highway motor vehicles subject to identification, as defined in Section 38012, except off-highway motorcycles, as defined in Section 436, and all-terrain vehicles, as defined in Section 111. Except as otherwise provided in this chapter, this chapter applies to a new motor vehicle dealer as defined in Section 426, a vehicle manufacturer as defined in Section 672, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

CHAPTER 638

An act to amend Section 33214 of, and to add Section 33217 to, the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 33214 of the Health and Safety Code is amended to read:

33214. (a) Notwithstanding Section 33120, the territorial jurisdiction of an agency in the county shall include all of the unincorporated territory that was included in a project area selected pursuant to Section 33322 or 34004 even if that territory is subsequently annexed to a city or included within the boundaries of a new city, unless territorial jurisdiction over the project area is transferred from a county to a city pursuant to Section 33215 , 33216, or 33217.

(b) Notwithstanding Section 33120, the territorial jurisdiction of an agency in a city shall include all of the territory within the limits of the city that was included in a project area selected pursuant to Section 33322 or 34004 even if that territory is subsequently annexed to another city or included within the boundaries of a new city, unless territorial jurisdiction over the project area is transferred to the other city pursuant to Section 33215, 33216, or 33217.

SEC. 2. Section 33217 is added to the Health and Safety Code, to read:

33217. If a portion of a city containing a portion of a redevelopment project area is incorporated as a new city, and the new city establishes an agency to be the receiving agency for that portion of the project area, the creating agency and the receiving agency shall have six months from the date of the establishment of that receiving agency to enter into an agreement pursuant to Section 33216. If that agreement is not entered into within that six-month period, the creating agency shall not thereafter expend any money pursuant to this part or Part 1.5 (commencing with Section 34000) within the project area, except to repay existing indebtedness, until those agencies have entered into that agreement. That indebtedness shall include outstanding bonded indebtedness, existing agreements, contracts, leases, and expenditures made to, or on behalf of, the project area from other resources or borrowings of the creating agency.

CHAPTER 639

An act to amend Sections 674, 699.510, 699.520, 699.540, 699.545, 700.010, and 700.160 of, and to add Section 680.135 to, the Code of Civil Procedure, relating to judgments.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) Except as otherwise provided in Section 4506 of the Family Code, an abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

(1) The title of the court where the judgment or decree is entered and cause and number of the action.

(2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.

(3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.

(4) The name and address of the judgment creditor.

(5) The amount of the judgment or decree as entered or as last renewed.

(6) The social security number and driver's license number of the judgment debtor if they are known to the judgment creditor; and, if either or both of those numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(8) The date of issuance of the abstract.

(b) An abstract of judgment, recorded after January 1, 1979, that does not list the social security number and driver's license number of the judgment debtor, or either of them, as required by subdivision (a) or by Section 4506 of the Family Code, may be amended by the recording of a document entitled ''Amendment to Abstract of Judgment.'' The Amendment to Abstract of Judgment shall contain all of the information required by this section or by Section 4506 of the Family Code, shall list both the social security number and driver's license number if both of those numbers were known at the date of recordation of the original abstract of judgment, or one of them, if only one was known, and shall set forth the date of recording and the book and page location in the records of the county recorder of the original abstract of judgment.

A recorded Amendment to Abstract of Judgment shall have priority as of the date of recordation of the original abstract of judgment, except as to any purchaser, encumbrancer, or lessee who obtained their interest after the recordation of the original abstract of judgment but prior to the recordation of the Amendment to Abstract of Judgment without actual notice of the original abstract of judgment. The purchaser, encumbrancer, or lessee without actual notice may assert as a defense

against enforcement of the abstract of judgment the failure to comply with this section or Section 4506 of the Family Code regarding the contents of the original abstract of judgment notwithstanding the subsequent recordation of an Amendment to Abstract of Judgment. With respect to an abstract of judgment recorded between January 1, 1979, and July 10, 1985, the defense against enforcement for failure to comply with this section or Section 4506 of the Family Code may not be asserted by the holder of another abstract of judgment or involuntary lien, recorded without actual notice of the prior abstract, unless refusal to allow the defense would result in prejudice and substantial injury as used in Section 475. The recordation of an Amendment to Abstract of Judgment does not extend or otherwise alter the computation of time as provided in Section 697.310.

(c) (1) The abstract of judgment shall be certified in the name of the judgment debtor as listed on the judgment and may also include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the abstract of judgment. Prior to the clerk of court certifying an abstract of judgment containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the certification of the abstract of judgment with the additional name or names.

(2) The remedies provided in Section 697.410 apply to a recorded abstract of a money judgment based upon an affidavit of identity that appears to create a judgment lien on real property of a person who is not the judgment debtor.

SEC. 2. Section 680.135 is added to the Code of Civil Procedure, to read:

680.135. ''Affidavit of Identity'' means an affidavit or declaration executed by a judgment creditor, under penalty of perjury, that is filed with the clerk of the court in which the judgment is entered at the time the judgment creditor files for a writ of execution or an abstract of judgment. The affidavit of identity shall set forth the case name and number, the name of the judgment debtor stated in the judgment, the additional name or names by which the judgment debtor is known, and the facts upon which the judgment creditor has relied in obtaining the judgment debtor's additional name or names. The affidavit of identity shall not include the name or names of persons, including any corporations, partnerships, or any legal entities not separately named in

the judgment in which the judgment debtor is a partner, shareholder, or member, other than the judgment debtor.

SEC. 3. Section 699.510 of the Code of Civil Procedure is amended to read:

699.510. (a) Subject to subdivision (b), after entry of a money judgment, a writ of execution shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the levy is to be made and to any registered process server. A separate writ shall be issued for each county where a levy is to be made. Writs may be issued successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned.

(b) If the judgment creditor seeks a writ of execution to enforce a judgment made, entered, or enforceable pursuant to the Family Code, in addition to the requirements of this article, the judgment creditor shall satisfy the requirements of any applicable provisions of Chapter 7 (commencing with Section 5100) of Part 5 of Division 9 of the Family Code and Sections 290, 291, 2026, and 3556 of the Family Code.

(c) (1) The writ of execution shall be issued in the name of the judgment debtor as listed on the judgment and may include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the writ of execution. Prior to the clerk of court issuing a writ of execution containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the issuance of the writ of execution with the additional name or names.

(2) In any case where the writ of execution lists any name other than that listed on the judgment, the person in possession or control of the levied property, if other than the judgment debtor, shall not pay to the levying officer the amount or deliver the property being levied upon until being notified to do so by the levying officer. The levying officer may not require the person, if other than the judgment debtor, in possession or control of the levied property to pay the amount or deliver the property levied upon until the expiration of 15 days after service of notice of levy.

(3) If a person who is not the judgment debtor has property erroneously subject to an enforcement of judgment proceeding based upon an affidavit of identity, the person shall be entitled to the recovery of reasonable attorneys' fees and costs from the judgment creditor

incurred in releasing the person's property from a writ of execution, in addition to any other damages or penalties to which an aggrieved person may be entitled to by law, including the provisions of Division 4 (commencing with Section 720.010).

SEC. 3.1. Section 699.510 of the Code of Civil Procedure is amended to read:

699.510. (a) Subject to subdivision (b), after entry of a money judgment, a writ of execution shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the levy is to be made and to any registered process server. A separate writ shall be issued for each county where a levy is to be made. Writs may be issued successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned.

(b) If the judgment creditor seeks a writ of execution to enforce a judgment made, entered, or enforceable pursuant to the Family Code, in addition to the requirements of this article, the judgment creditor shall satisfy the requirements of any applicable provisions of the Family Code.

(c) (1) The writ of execution shall be issued in the name of the judgment debtor as listed on the judgment and may include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the writ of execution. Prior to the clerk of court issuing a writ of execution containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the issuance of the writ of execution with the additional name or names.

(2) In any case where the writ of execution lists any name other than that listed on the judgment, the person in possession or control of the levied property, if other than the judgment debtor, shall not pay to the levying officer the amount or deliver the property being levied upon until being notified to do so by the levying officer. The levying officer may not require the person, if other than the judgment debtor, in possession or control of the levied property to pay the amount or deliver the property levied upon until the expiration of 15 days after service of notice of levy.

(3) If a person who is not the judgment debtor has property erroneously subject to an enforcement of judgment proceeding based upon an affidavit of identity, the person shall be entitled to the recovery

of reasonable attorneys' fees and costs from the judgment creditor incurred in releasing the person's property from a writ of execution, in addition to any other damages or penalties to which an aggrieved person may be entitled to by law, including the provisions of Division 4 (commencing with Section 720.010).

SEC. 4. Section 699.520 of the Code of Civil Procedure is amended to read:

699.520. The writ of execution shall require the levying officer to whom it is directed to enforce the money judgment and shall include the following information:

(a) The date of issuance of the writ.

(b) The title of the court where the judgment is entered and the cause and number of the action.

(c) The name and address of the judgment creditor and the name and last known address of the judgment debtor.

(d) The date of the entry of the judgment and of any subsequent renewals and where entered in the records of the court.

(e) The total amount of the money judgment as entered or renewed, together with costs thereafter added to the judgment pursuant to Section 685.090 and the accrued interest on the judgment from the date of entry or renewal of the judgment to the date of issuance of the writ, reduced by any partial satisfactions and by any amounts no longer enforceable.

(f) The amount required to satisfy the money judgment on the date the writ is issued.

(g) The amount of interest accruing daily on the principal amount of the judgment from the date the writ is issued.

(h) Whether any person has requested notice of sale under the judgment and, if so, the name and mailing address of such person.

(i) The sum of the fees and costs added to the judgment pursuant to Section 6103.5 or 68511.3 of the Government Code and which is in addition to the amount owing to the judgment creditor on the judgment.

(j) Whether the writ of execution includes any additional names of the judgment debtor pursuant to an affidavit of identity, as defined in Section 680.135.

SEC. 5. Section 699.540 of the Code of Civil Procedure is amended to read:

699.540. The notice of levy required by Article 4 (commencing with Section 700.010) shall inform the person notified of all of the following:

(a) The capacity in which the person is notified.

(b) The property that is levied upon.

(c) The person's rights under the levy, including the right to claim an exemption pursuant to Chapter 4 (commencing with Section 703.010) and the right to make a third-party claim pursuant to Division 4 (commencing with Section 720.010).

(d) The person's duties under the levy.

(e) All names listed in the writ of execution pursuant to an affidavit of identity, as defined in Section 680.135, if any.

SEC. 6. Section 699.545 of the Code of Civil Procedure is amended to read:

699.545. A copy of the original notice of levy which has been served upon a third party holding the property sought to be levied upon and the affidavit of identity, as defined in Section 680.135, if any, if served upon the judgment debtor or any other party, shall suffice as the notice of levy to that person.

SEC. 7. Section 700.010 of the Code of Civil Procedure is amended to read:

700.010. (a) At the time of levy pursuant to this article or promptly thereafter, the levying officer shall serve a copy of the following on the judgment debtor:

(1) The writ of execution.

(2) A notice of levy.

(3) If the judgment debtor is a natural person, a copy of the form listing exemptions prepared by the Judicial Council pursuant to subdivision (c) of Section 681.030.

(4) Any affidavit of identity, as defined in Section 680.135, for names of the debtor listed on the writ of execution.

(b) Service under this section shall be made personally or by mail.

SEC. 8. Section 700.160 of the Code of Civil Procedure is amended to read:

700.160. (a) Except as provided in subdivision (b), a deposit account or safe-deposit box standing in the name of a person other than the judgment debtor, either alone or together with other third persons, is not subject to levy under Section 700.140 or 700.150 unless the levy is authorized by court order. The levying officer shall serve a copy of the court order on the third person at the time the copy of the writ of execution and the notice of levy are served on the third person.

(b) A court order is not required as a prerequisite to levy on a deposit account or safe-deposit box standing in the name of any of the following:

(1) The judgment debtor, whether alone or together with third persons.

(2) The judgment debtor's spouse, whether alone or together with other third persons. An affidavit showing that the person in whose name the account stands is the judgment debtor's spouse shall be delivered to the financial institution at the time of levy.

(3) A fictitious business name if an unexpired fictitious business name statement filed pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code lists as the persons doing business under the fictitious business name either

(A) the judgment debtor or (B) the judgment debtor's spouse or (C) the judgment debtor and the judgment debtor's spouse, but does not list any other person. A copy of a fictitious business name statement, certified as provided in Section 17926 of the Business and Professions Code, that satisfies these requirements shall be delivered to the financial institution at the time of levy, and if a person other than the defendant is listed in the statement, an affidavit showing that the other person is the judgment debtor's spouse shall also be delivered to the financial institution at the time of levy.

(4) The additional name of a judgment debtor listed on the writ of execution pursuant to an affidavit of identity as provided by Section 680.135, whether alone or together with third persons.

(c) In any case where a deposit account in the name of a person other than the judgment debtor, whether alone or together with the judgment debtor, is levied upon, the financial institution shall not pay to the levying officer the amount levied upon until being notified to do so by the levying officer. The levying officer may not require the financial institution to pay the amount levied upon until the expiration of 15 days after service of notice of levy on the third person.

SEC. 9. Section 3.1 of this bill incorporates amendments to Section 699.510 of the Code of Civil Procedure proposed by both this bill and AB 1358. 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 699.510 of the Code of Civil Procedure, and (3) this bill is enacted after AB 1358, in which case Section 3 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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CHAPTER 640

An act to amend, repeal, and add Section 41841.6 of the Education Code, relating to education of prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 41841.6 of the Education Code is amended to read:

41841.6. (a) Except as otherwise provided in subdivision (b) of Section 46191, commencing with the 1994–95 fiscal year, and for each fiscal year thereafter, for purposes of Sections 1909 and 41841.5, the calculation of the average daily attendance for schools or classes for adults in correctional facilities is subject to the following condition: A school district or county board of education shall not claim or report any increase in average daily attendance in excess of the percentage authorized by subdivision (c) of Section 52616.17, unless the Legislature approves the increase for that fiscal year in the annual Budget Act.

(b) No state funds shall be allocated to a school district or county board of education for units of average daily attendance that have not been approved by the Legislature pursuant to subdivision (a).

(c) This section shall become inoperative on July 1, 2000, and as of January 1, 2001, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 41841.6 is added to the Education Code, to read:

41841.6. (a) Except as otherwise provided in subdivision (b) of Section 46191, for the 2000–01 fiscal year for purposes of Sections 1909 and 41841.5, in calculating the average daily attendance for schools or classes for adults in correctional facilities, a school district or county board of education may not claim or report any increase in average daily attendance in excess of the average daily attendance claimed and authorized pursuant to this article during the previous fiscal year multiplied by a factor of 1.025 to 1.14, as specified as follows:

(1) A school district or county office of education that has not experienced a loss of average daily attendance due to extenuating circumstances may not claim or report an increase in average daily attendance in excess of that authorized pursuant to this article during the previous fiscal year multiplied by 1.025.

(2) A school district that experienced a loss of units of average daily attendance due to extenuating circumstances may not claim or report an increase in average daily attendance in excess of that authorized pursuant to this article during the previous fiscal year multiplied by a factor equivalent to the number derived by adding 1.025 to the extenuating circumstances factor, as defined pursuant to paragraph (3).

(3) For purposes of this section, ''a school district or county office of education that experienced a loss of average daily attendance due to extenuating circumstances'' means a school district or county office of education that experienced a loss of average daily attendance as a result of the temporary or permanent closure of jails, a jail, or a unit thereof, that occurred on or after June 30, 1993, at which the district or office provided jail education programs that were subject to reimbursement by the state.

(4) For purposes of paragraph (2), ''extenuating circumstances factor'' means that number derived by dividing the number of units of average daily attendance lost to circumstances defined in paragraph (3) divided by the number of units of average daily attendance claimed in the fiscal year prior to the extenuating circumstances occurring, provided that the factor does not exceed .115.

(5) Any school district or county office of education claiming additional average daily attendance pursuant to the ''extenuating circumstances factor'' defined in paragraph (4) shall document the extenuating circumstances and the data involved in calculating their extenuating circumstances factor. This subdivision shall apply only to average daily attendance generated in the 2000–01 fiscal year.

(b) Except as otherwise provided in subdivision (b) of Section 46191, commencing with the 2001-02 fiscal year, and for each fiscal year thereafter, for purposes of Sections 1909 and 41841.5, in calculating the average daily attendance for schools or classes for adults in correctional facilities, a school district or county board of education may not claim or report any increase in average daily attendance in excess of the average daily attendance authorized pursuant to this article during the previous fiscal year multiplied by 1.025, unless the Legislature approves a greater increase for that fiscal year in the annual Budget Act.

(c) No state funds shall be allocated to a school district or county board of education for units of average daily attendance that have not been approved by the Legislature pursuant to subdivision (a) or (b).

(d) This section shall become operative on July 1, 2000.

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 adults in correctional facilities are able to receive an education following temporary closures of those facilities, it is necessary that this act take effect immediately.

CHAPTER 641

An act to amend Section 12110 of, and to add Section 13351.85 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 12110 of the Vehicle Code is amended to read:

12110. (a) Except as provided in subdivision (b), no towing service shall provide and no person or public entity shall accept any direct or indirect commission, gift, or any compensation whatever from a towing service in consideration of arranging or requesting the services of a tow truck. As used in this section, ''arranging'' does not include the activities of employees or principals of a provider of towing services in responding to a request for towing services.

(b) Subdivision (a) does not preclude a public entity otherwise authorized by law from requiring a fee in connection with the award of a franchise for towing vehicles on behalf of that public entity. However, the fee in those cases may not exceed the amount necessary to reimburse the public entity for its actual and reasonable costs incurred in connection with the towing program.

(c) Any towing service or any employee of a towing service that accepts or agrees to accept any money or anything of value from a repair shop and any repair shop or any employee of a repair shop that pays or agrees to pay any money or anything of value as a commission, referral fee, inducement, or in any manner a consideration, for the delivery or the arranging of a delivery of a vehicle, not owned by the repair shop or towing service, for the purpose of storage or repair, is guilty of a misdemeanor, punishable as set forth in subdivision (d). Nothing in this subdivision prevents a towing service from towing a vehicle to a repair shop owned by the same company that owns the towing service.

(d) Any person convicted of a violation of subdivision (a) or (c) shall be punished as follows:

(1) Upon first conviction, by a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If the violation of

subdivision (a) or (c) is committed by a tow truck driver, the person's privilege to operate a motor vehicle shall be suspended by the department under Section 13351.85. The clerk of the court shall send a certified abstract of the conviction to the department. If the violation of either subdivision (a) or (c) is committed by a tow truck driver, the court may order the impoundment of the tow truck involved for not more than 15 days.

(2) Upon a conviction of a violation of subdivision (a) or (c) that occurred within seven years of one or more separate convictions of violations of subdivision (a) or (c), by a fine of not more than ten thousand dollars ($10,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the violation of subdivision (a) or (c) is committed by a tow truck driver, the person's privilege to operate a motor vehicle shall be suspended by the department under Section 13351.85. The clerk of the court shall send a certified abstract of the conviction to the department. If the violation of either subdivision (a) or (c) is committed by a tow truck owner, the court may order the impoundment of the tow truck involved for not less than 15 days but not more than 30 days.

SEC. 2. Section 13351.85 is added to the Vehicle Code, to read:

13351.85. Upon receipt of a duly certified abstract of any court showing that a person has been convicted of a violation of Section 12110, the department shall suspend that person's driving privilege for four months if the conviction was a first conviction, and for one year, if the conviction was a second or subsequent conviction of a violation of that section that occurred within seven years of the current conviction.

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

CHAPTER 642

An act to add Section 33319.3 to the Education Code, and to amend Sections 11113 and 11219 of, and to add Sections 13210 and 13351.8 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 33319.3 is added to the Education Code, to read:

33319.3. The State Department of Education shall prepare materials on driver attitude and motivation that focus on the reduction of driving violations with particular emphasis on aggressive driving behavior and behavior commonly known as ''road rage'' and shall make these materials available to school districts to use in connection with programs of automobile driving education, at the option of the school district.

SEC. 2. Section 11113 of the Vehicle Code is amended to read:

11113. (a) The director may prescribe rules and regulations for driving schools regarding the conduct of courses of driver education and driver training, including curriculum, facilities, and equipment. The rules and regulations regarding curriculum shall require both of the following:

(1) A component relating to the dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle.

(2) A component examining driver attitude and motivation that focuses on the reduction of future driving violations, with particular emphasis on aggressive driving behavior and behavior commonly known as ''road rage.''

(b) The director may also prescribe rules and regulations for the conduct of driving instructor training courses required by Sections 11102.5 and 11104, including curriculum, facilities, and equipment. The department shall monitor instruction given by driving schools.

SEC. 3. Section 11219 of the Vehicle Code is amended to read:

11219. The director may prescribe rules and regulations for traffic violator schools regarding the conduct of courses of education including curriculum, facilities, and equipment. The curriculum shall include, but not be limited to, a component examining driver attitude and motivation that focuses on the reduction of future driving violations, with particular emphasis on aggressive driving behavior and behavior commonly known as ''road rage.'' The director may also prescribe rules and regulations for the conduct of instructor training courses.

SEC. 4. Section 13210 is added to the Vehicle Code, to read:

13210. In addition to the penalties set forth in subdivision (a) of Section 245 of the Penal Code, the court may order the suspension of the driving privilege of any operator of a motor vehicle who commits an assault as described in subdivision (a) of Section 245 of the Penal Code on an operator or passenger of another motor vehicle, an operator of a bicycle, or a pedestrian and the offense occurs on a highway. The suspension period authorized under this section for an assault commonly known as ''road rage,'' shall be six months for a first offense and one year

for a second or subsequent offense to commence, at the discretion of the court, either on the date of the person's conviction, or upon the person's release from confinement or imprisonment. The court may, in lieu of or in addition to the suspension of the driving privilege, order a person convicted under this section to complete a court-approved anger management or "road rage" course, subsequent to the date of the current violation.

SEC. 5. Section 13351.8 is added to the Vehicle Code, to read:

13351.8. Upon receipt of a duly certified abstract of the record of any court showing that the court has ordered the suspension of a driver's license pursuant to Section 13210, on or after January 1, 2001, the department shall suspend the person's driving privilege in accordance with that suspension order commencing either on the date of the person's conviction or upon the person's release from confinement or imprisonment.

CHAPTER 643

An act to amend Section 6600 of the Welfare and Institutions Code, relating to sexually violent predators.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 6600 of the Welfare and Institutions Code is amended to read:

6600. As used in this article, the following terms have the following meanings:

(a) (1) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against two or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(2) For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

(A) A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

(B) A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

(C) A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

(D) A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

(E) A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

(F) A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

(G) A conviction resulting in a finding that the person was a mentally disordered sex offender.

(3) Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) ''Sexually violent offense'' means the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as provided in subdivision (a): a felony violation of paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of Section 289 of the Penal Code, or sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code.

(c) ''Diagnosed mental disorder'' includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) ''Danger to the health and safety of others'' does not require proof of a recent overt act while the offender is in custody.

(e) ''Predatory'' means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) ''Recent overt act'' means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, no more than one prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following applies:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). Notwithstanding Section 6600.1, only an offense described in subdivision (b) shall constitute a sexually violent offense for purposes of this subdivision.

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Department of the Youth Authority for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

SEC. 2. Section 6600 of the Welfare and Institutions Code is amended to read:

6600. As used in this article, the following terms have the following meanings:

(a) (1) ''Sexually violent predator'' means a person who has been convicted of a sexually violent offense against two or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(2) For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

(A) A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

(B) A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

(C) A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

(D) A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

(E) A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

(F) A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

(G) A conviction resulting in a finding that the person was a mentally disordered sex offender.

(3) Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) ''Sexually violent offense'' means the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as provided in subdivision (a): a felony violation of paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, Section 288.5, or subdivision (a) of Section 289 of the Penal Code, or sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code.

(c) ''Diagnosed mental disorder'' includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) ''Danger to the health and safety of others'' does not require proof of a recent overt act while the offender is in custody.

(e) (1) Except as provided in paragraph (2), ''predatory'' means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(2) (A) Notwithstanding paragraph (1), if the Controller determines that funds have been made available in the annual Budget Act or other legislation for purposes of the treatment program for sex offenders contained in Article 3.5 (commencing with Section 2688) of Chapter 4 of Title 1 of Part 3 of the Penal Code, the definition contained in subparagraph (B) shall apply to this article.

(B) ''Predatory'' means an act is directed toward a stranger, a child under the age of 14 years, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) ''Recent overt act'' means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, no more than one prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following applies:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). Notwithstanding Section 6600.1, only an offense described in subdivision (b) shall constitute a sexually violent offense for purposes of this subdivision.

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Department of the Youth Authority for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6600 of the Welfare and Institutions Code proposed by both this bill and AB 1458. 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 6600 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1458, in which case Section 1 of this bill shall not become operative.

CHAPTER 644

An act to amend Sections 638, 639, 640, 641, 641.2, 643, 644, 645, and 645.1 of, to add Section 645.2 to, and to repeal and add Section 642 of, the Code of Civil Procedure, relating to referees.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 638 of the Code of Civil Procedure is amended to read:

638. A referee may be appointed upon the agreement of the parties filed with the clerk, or judge, or entered in the minutes or in the docket, or upon the motion of a party to a written contract or lease that provides that any controversy arising therefrom shall be heard by a referee if the court finds a reference agreement exists between the parties:

(a) To hear and determine any or all of the issues in an action or proceeding, whether of fact or of law, and to report a statement of decision thereon.

(b) To ascertain a fact necessary to enable the court to determine an action or proceeding.

(c) In any matter in which a referee is appointed pursuant to this section, a copy of the order shall be forwarded to the office of the presiding judge. The Judicial Council shall, by rule, collect information on the use of these referees. The Judicial Council shall also collect information on fees paid by the parties for the use of referees to the extent that information regarding those fees is reported to the court. The Judicial Council shall report thereon to the Legislature by January 1, 2003. This subdivision shall become inoperative on January 1, 2004.

SEC. 2. Section 639 of the Code of Civil Procedure is amended to read:

639. (a) When the parties do not consent, the court may, upon the written motion of any party, or of its own motion, appoint a referee in the following cases:

(1) When the trial of an issue of fact requires the examination of a long account on either side; in which case the referees may be directed to hear

and decide the whole issue, or report upon any specific question of fact involved therein.

(2) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.

(3) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of the action.

(4) When it is necessary for the information of the court in a special proceeding.

(5) When the court in any pending action determines that it is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon.

(b) All appointments of referees pursuant to this section shall be by written order and shall include the following:

(1) When the referee is appointed pursuant to paragraph (1), (2), (3), or (4) of subdivision (a), a statement of the reason the referee is being appointed.

(2) When the referee is appointed pursuant to paragraph (5) of subdivision (a), the exceptional circumstances requiring the reference, which must be specific to the circumstances of the particular case.

(3) The subject matter or matters included in the reference.

(4) The name, business address, and telephone number of the referee.

(5) The maximum hourly rate the referee may charge and, at the request of any party, the maximum number of hours for which the referee may charge. Upon the written application of any party or the referee, the court may, for good cause shown, modify the maximum number of hours subject to any findings as set forth in paragraph (6).

(6) (A) Either a finding that no party has established an economic inability to pay a pro rata share of the referee's fee or a finding that one or more parties has established an economic inability to pay a pro rata share of the referee's fees and that another party has agreed voluntarily to pay that additional share of the referee's fee. A court shall not appoint a referee at a cost to the parties if neither of these findings is made.

(B) In determining whether a party has established an inability to pay the referee's fees under subparagraph (A), the court shall consider only the ability of the party, not the party's counsel, to pay these fees. If a party is proceeding in forma pauperis, the party shall be deemed by the court to have an economic inability to pay the referee's fees. However, a determination of economic inability to pay the fees shall not be limited to parties that proceed in forma pauperis. For those parties who are not proceeding in forma pauperis, the court, in determining whether a party has established an inability to pay the fees, shall consider, among other things, the estimated cost of the referral and the impact of the proposed fees on the party's ability to proceed with the litigation.

(c) In any matter in which a referee is appointed pursuant to paragraph (5) of subdivision (a), a copy of the order appointing the referee shall be forwarded to the office of the presiding judge of the court. The Judicial Council shall, by rule, collect information on the use of these references and the reference fees charged to litigants, and shall report thereon to the Legislature by January 1, 2003. This subdivision shall become inoperative on January 1, 2004.

SEC. 2.5. Section 639 of the Code of Civil Procedure is amended to read:

639. (a) When the parties do not consent, the court may, upon the written motion of any party, or of its own motion, appoint a referee in the following cases:

(1) When the trial of an issue of fact requires the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein.

(2) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.

(3) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of the action.

(4) When it is necessary for the information of the court in a special proceeding.

(5) When the court in any pending action determines that it is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon.

(b) In a discovery matter, a motion to disqualify an appointed referee pursuant to Section 170.6 shall be made to the court by a party either:

(A) Within 10 days after notice of the appointment, or if the party has not yet appeared in the action, a motion shall be made within 10 days after the appearance, if a discovery referee has been appointed for all discovery purposes.

(B) At least five days before the date set for hearing, if the referee assigned is known at least 10 days before the date set for hearing and the discovery referee has been assigned only for limited discovery purposes.

(c) When a referee is appointed pursuant to paragraph (5) of subdivision (a), the order shall indicate whether the referee is being appointed for all discovery purposes in the action.

(d) All appointments of referees pursuant to this section shall be by written order and shall include the following:

(1) When the referee is appointed pursuant to paragraph (1), (2), (3), or (4) of subdivision (a), a statement of the reason the referee is being appointed.

(2) When the referee is appointed pursuant to paragraph (5) of subdivision (a), the exceptional circumstances requiring the reference, which must be specific to the circumstances of the particular case.

(3) The subject matter or matters included in the reference.

(4) The name, business address, and telephone number of the referee.

(5) The maximum hourly rate the referee may charge and, at the request of any party, the maximum number of hours for which the referee may charge. Upon the written application of any party or the referee, the court may, for good cause shown, modify the maximum number of hours subject to any findings as set forth in paragraph (6).

(6) (A) Either a finding that no party has established an economic inability to pay a pro rata share of the referee's fee or a finding that one or more parties has established an economic inability to pay a pro rata share of the referee's fees and that another party has agreed voluntarily to pay that additional share of the referee's fee. A court shall not appoint a referee at a cost to the parties if neither of these findings is made.

(B) In determining whether a party has established an inability to pay the referee's fees under subparagraph (A), the court shall consider only the ability of the party, not the party's counsel, to pay these fees. If a party is proceeding in forma pauperis, the party shall be deemed by the court to have an economic inability to pay the referee's fees. However, a determination of economic inability to pay the fees shall not be limited to parties that proceed in forma pauperis. For those parties who are not proceeding in forma pauperis, the court, in determining whether a party has established an inability to pay the fees, shall consider, among other things, the estimated cost of the referral and the impact of the proposed fees on the party's ability to proceed with the litigation.

(e) In any matter in which a referee is appointed pursuant to paragraph (5) of subdivision (a), a copy of the order appointing the referee shall be forwarded to the office of the presiding judge of the court. The Judicial Council shall, by rule, collect information on the use of these references and the reference fees charged to litigants, and shall report thereon to the Legislature by January 1, 2003. This subdivision shall become inoperative on January 1, 2004.

SEC. 3. Section 640 of the Code of Civil Procedure is amended to read:

640. (a) The court shall appoint as referee or referees the person or persons, not exceeding three, agreed upon by the parties.

(b) If the parties do not agree on the selection of the referee or referees, each party shall submit to the court up to three nominees for appointment as referee and the court shall appoint one or more referees, not exceeding three, from among the nominees against whom there is no legal objection. If no nominations are received from any of the parties, the court shall appoint one or more referees, not exceeding three, against

whom there is no legal objection, or the court may appoint a court commissioner of the county where the cause is pending as a referee.

(c) Participation in the referee selection procedure pursuant to this section does not constitute a waiver of grounds for objection to the appointment of a referee under Section 641 or 641.2.

SEC. 4. Section 641 of the Code of Civil Procedure is amended to read:

641. A party may object to the appointment of any person as referee, on one or more of the following grounds:

(a) A want of any of the qualifications prescribed by statute to render a person competent as a juror, except a requirement of residence within a particular county in the state.

(b) Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to any judge of the court in which the appointment shall be made.

(c) Standing in the relation of guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party.

(d) Having served as a juror or been a witness on any trial between the same parties.

(e) Interest on the part of the person in the event of the action, or in the main question involved in the action.

(f) Having formed or expressed an unqualified opinion or belief as to the merits of the action.

(g) The existence of a state of mind in the potential referee evincing enmity against or bias toward either party.

SEC. 5. Section 641.2 of the Code of Civil Procedure is amended to read:

641.2. In any action brought under Article 8 (commencing with Section 12600) of Chapter 6, Part 2, Division 3, Title 3 of the Government Code, a party may object to the appointment of any person as referee on the ground that the person is not technically qualified with respect to the particular subject matter of the proceeding.

SEC. 6. Section 642 of the Code of Civil Procedure is repealed.

SEC. 7. Section 642 is added to the Code of Civil Procedure, to read:

642. Objections, if any, to a reference or to the referee or referees appointed by the court shall be made in writing, and must be heard and disposed of by the court, not by the referee.

SEC. 8. Section 643 of the Code of Civil Procedure is amended to read:

643. (a) Unless otherwise directed by the court, the referees or commissioner must report their statement of decision in writing to the

court within 20 days after the hearing, if any, has been concluded and the matter has been submitted.

(b) A referee appointed pursuant to Section 638 shall report as agreed by the parties and approved by the court.

(c) A referee appointed pursuant to Section 639 shall file with the court a report that includes a recommendation on the merits of any disputed issue, a statement of the total hours spent and the total fees charged by the referee, and the referee's recommended allocation of payment. The referee shall serve the report on all parties. Any party may file an objection to the referee's report or recommendations within 10 days after the referee serves and files the report, or within another time as the court may direct. The objection shall be served on the referee and all other parties. Responses to the objections shall be filed with the court and served on the referee and all other parties within 10 days after the objection is served. The court shall review any objections to the report and any responses submitted to those objections and shall thereafter enter appropriate orders. Nothing in this section is intended to deprive the court of its power to change the terms of the referee's appointment or to modify or disregard the referee's recommendations, and this overriding power may be exercised at any time, either on the motion of any party for good cause shown or on the court's own motion.

SEC. 9. Section 644 of the Code of Civil Procedure is amended to read:

644. (a) In the case of a consensual general reference pursuant to Section 638, the decision of the referee or commissioner upon the whole issue must stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon in the same manner as if the action had been tried by the court.

(b) In the case of all other references, the decision of the referee or commissioner is only advisory. The court may adopt the referee's recommendations in whole or in part after independently considering the referee's findings and any objections and responses thereto filed with the court.

SEC. 10. Section 645 of the Code of Civil Procedure is amended to read:

645. The decision of the referee appointed pursuant to Section 638 or commissioner may be excepted to and reviewed in like manner as if made by the court. When the reference is to report the facts, the decision reported has the effect of a special verdict.

SEC. 11. Section 645.1 of the Code of Civil Procedure is amended to read:

645.1. (a) When a referee is appointed pursuant to Section 638, the referee's fees shall be paid as agreed by the parties. If the parties do not

agree on the payment of fees and request the matter to be resolved by the court, the court may order the parties to pay the referee's fees as set forth in subdivision (b).

(b) When a referee is appointed pursuant to Section 639, at any time after a determination of ability to pay is made as specified in paragraph (6) of subdivision (b) of Section 639, the court may order the parties to pay the fees of referees who are not employees or officers of the court at the time of appointment, as fixed pursuant to Section 1023, in any manner determined by the court to be fair and reasonable, including an apportionment of the fees among the parties. For purposes of this section, the term ''parties'' does not include parties' counsel.

SEC. 12. Section 645.2 is added to the Code of Civil Procedure, to read:

645.2. The Judicial Council shall adopt all rules of court necessary to implement this chapter.

SEC. 13. Section 2.5 of this bill incorporates amendments to Section 639 of the Code of Civil Procedure proposed by both this bill and SB 2153. 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 639 of the Code of Civil Procedure, and (3) this bill is enacted after SB 2153, in which case Section 2 of this bill shall not become operative.

CHAPTER 645

An act to add Section 682.1 to the Civil Code, relating to community property.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 682.1 is added to the Civil Code, to read:

682.1. (a) Community property of a husband and wife, when expressly declared in the transfer document to be community property with right of survivorship, and which may be accepted in writing on the face of the document by a statement signed or initialed by the grantees, shall, upon the death of one of the spouses, pass to the survivor, without administration, pursuant to the terms of the instrument, subject to the same procedures, as property held in joint tenancy. Prior to the death of either spouse, the right of survivorship may be terminated pursuant to the same procedures by which a joint tenancy may be severed. Part I

(commencing with Section 5000) of Division 5 of the Probate Code and Chapter 2 (commencing with Section 13540), Chapter 3 (commencing with Section 13550) and Chapter 3.5 (commencing with Section 13560) of Part 2 of Division 8 of the Probate Code apply to this property.

(b) This section does not apply to a joint account in a financial institution to which Part 2 (commencing with Section 5100) of Division 5 of the Probate Code applies.

(c) This section shall become operative on July 1, 2001, and shall apply to instruments created on or after that date.

CHAPTER 646

An act to amend Sections 75.11, 75.21, 532, 731, 732, 733, 746, 748, 749, 758, and 759 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple changes in ownership or multiple completions of new construction, or both, with respect to the same real property during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

(d) (1) Except as otherwise provided in paragraph (2), no supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in subparagraphs (A), (B), or (C) as follows:

(A) The fourth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed.

(B) The sixth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed, if the penalty provided for in Section 504 is added to the assessment.

(C) The eighth July 1 following the July 1 of assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership or change in control was unrecorded and a change in ownership statement, required by Section 480, or a preliminary change in ownership report, as required by Section 480.3, was not timely filed.

(2) Notwithstanding paragraph (1), there shall be no limitations period on making a supplemental assessment, if the penalty provided for in Section 503 is required to be added to the assessment.

For the purposes of this subdivision, ''assessment year'' means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

(e) If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a

supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

SEC. 2. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that all of the following are true:

(1) The property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b).

(2) The assessee is eligible for the exemption.

(3) In those instances in which the provisions of this division require the filing of claims for exemption assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) (1) If this division requires the filing of claims for exemption, any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall, except as otherwise provided in subdivision (d) or (e), file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive a 100 percent exemption.

(2) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption was available but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each

supplemental assessment, if an appropriate application for exemption is filed after the date specified in subparagraph (A).

(3) For property for which the welfare exemption or veterans' organization exemption was available, Section 254.5, other than the specified dates for the filing of affidavits and other acts, applies to the application of those exemptions against a supplemental assessment.

(4) For property for which the veterans', homeowners', or disabled veterans' exemption was available but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent as provided by Section 75.52.

(5) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eight-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate applciation for exemption is filed after the date specified in subparagraph (A).

(6) Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that no claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption is in effect, a claim for any of those exemptions for a single supplemental assessment for a change in ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her

principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

(e) Notwithstanding subdivision (c), both of the following apply:

(1) No additional exemption claim is required to be filed until the next succeeding lien date if a supplemental assessment results from the completion of new construction on property that has previously been granted exemption on either the current roll or the roll being prepared.

(2) No additional exemption application is required to be filed until the next succeeding lien date if a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use. If a timely application for exemption is not filed on or before the next succeeding lien date, then the provisions of paragraph (1) of subdivision (c) apply. In all other instances where a supplemental assessment results from a change in ownership of property, an application for exemption shall be filed pursuant to subdivision (c).

SEC. 3. Section 532 of the Revenue and Taxation Code is amended to read:

532. (a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 is required to be added shall be made within six years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement, as required by Section 480, or a preliminary change in ownership report, as required by Section 480.3, is not filed with respect to the event giving rise to the escape assessment or underassessment, shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an ''unrecorded change in ownership or change in control'' means a deed or other document evidencing a change in ownership was not filed with the country recorder's office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership and either the penalty

provided for in Section 503 is required to be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed with respect to the event giving rise to the escape assessment or underassessment, an escape assessment shall be made for every year in which the property escaped taxation or was underassessed.

(c) For purposes of this section, ''assessment year'' means the period defined in Section 118.

SEC. 4. Section 731 of the Revenue and Taxation Code is amended to read:

731. Each year between the first day of January and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee that a petition for reassessment of the unitary property may be filed not later than July 20 of the same calender year in which the notice is provided at the headquarters of the board in Sacramento.

SEC. 5. Section 732 of the Revenue and Taxation Code is amended to read:

732. Each year between the first day of January and the last day of July, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee that a petition for reassessment of the nonunitary property may be filed not later than September 20 of the same calender year in which the notice is provided of the headquarters of the board in Sacramento.

SEC. 6. Section 733 of the Revenue and Taxation Code is amended to read:

733.

(a) If a timely petition for reassessment is not filed with the board, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified for filing a petition in the notice given in accordance with Section 731 or Section 732.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

SEC. 7. Section 746 of the Revenue and Taxation Code is amended to read:

746. Each year upon or prior to the completion of the assessment roll prepared by the board, but not later than June 15, the board shall mail notice to each assessee at its address as shown on the records of the board, of the allocated assessed values of the assessee's unitary property

that have been or are proposed to be placed on the assessment roll to be transmitted to county auditors. The notice shall advise the assessee that a petition for a correction of an allocated assessment may be filed not later than July 20 of the same calendar year in which the notice is provided at the headquarters of the board in Sacramento.

SEC. 8. Section 748 of the Revenue and Taxation Code is amended to read:

748. Upon receipt of a timely petition for correction of an allocated assessment, the board shall set a time and place within the state for a hearing on the petition. The board shall mail notice of the time and place for the hearing to the assessee at its address as shown on the records of the board not be less than 10 working days prior to the date of the hearing.

SEC. 9. Section 749 of the Revenue and Taxation Code is amended to read:

749. Section 743 shall be applicable to hearings on petitions for correction of an allocated assessment and the board shall notify the petitioner of its decision by mail. The decision shall include written findings and conclusions of the board if requested at or prior to the commencement of the hearing. A decision of the board on a petition for correction of an allocated assessement shall be completed on or before December 31 of the year in which the relevant hearing was held.

SEC. 10. Section 758 of the Revenue and Taxation Code is amended to read:

758. If the board roll has been transmitted to the local auditors, the board may make an assessment of escaped property or a roll correction. At least 30 days prior to transmitting a statement of assessment of escaped property or making a roll correction, the board shall notify the assessee whose property's full value has increased as a result of an escape assessment or roll correction of the assessed value of that property as it shall appear on the corrected roll. The notice shall be mailed to the assessee at its address shown in the records of the board. The notice shall advise the assessee of the date by which and the place where a petition for reassessment may be filed. The date for filing the petition shall not be less than 50 days from the date of the mailing of the notice of value. The provisions of Sections 741 to 744, inclusive, shall be applicable to petitions and hearings pursuant to this section except for the dates prescribed for decisions of the board.

SEC. 11. Section 759 of the Revenue and Taxation Code is amended to read:

759. (a) If a timely petition for reassessment is not filed in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for filing a petition for reassessment specified by that notice.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

CHAPTER 647

An act to amend Sections 51, 75.11, 75.21, 75.31, 227, 408, 532, 534, 674, 731, 732, 733, 746, 748, 749, 758, 759, 1605, 17935, and 19236 of, and to add Section 19052 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 51 of the Revenue and Taxation Code is amended to read:

51. (a) For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall, except as otherwise provided in subdivision (b) or (c), be the lesser of:

(1) Its base year value, compounded annually since the base year by an inflation factor, which shall be determined as follows:

(A) For any assessment year commencing prior to January 1, 1985, the inflation factor shall be the percentage change in the cost of living, as defined in Section 2212.

(B) For any assessment year commencing after January 1, 1985, and prior to January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from December of the prior fiscal year to December of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(C) For any assessment year commencing on or after January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(D) In no event shall the percentage increase for any assessment year determined pursuant to subparagraph (A), (B), or (C) exceed 2 percent of the prior year's value.

(2) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

(b) If the real property was damaged or destroyed by disaster, misfortune, or calamity and the board of supervisors of the county in which the real property is located has not adopted an ordinance pursuant to Section 170, or any portion of the real property has been removed by voluntary action by the taxpayer, the taxable value of the property shall be the sum of the following:

(1) The lesser of its base year value of land determined under paragraph (1) of subdivision (a) or full cash value of land determined pursuant to paragraph (2) of subdivision (a).

(2) The lesser of its base year value of improvements determined pursuant to paragraph (1) of subdivision (a) or the full cash value of improvements determined pursuant to paragraph (2) of subdivision (a).

In applying this subdivision, the base year value of the subject real property does not include that portion of the previous base year value of that property that was attributable to any portion of the property that has been destroyed or removed. The sum determined under this subdivision shall then become the base year value of the real property until that property is restored, repaired, or reconstructed or other provisions of law require establishment of a new base year value.

(c) If the real property was damaged or destroyed by disaster, misfortune or calamity and the board of supervisors in the county in which the real property is located has adopted an ordinance pursuant to Section 170, the taxable value of the real property shall be its assessed value as computed pursuant to Section 170.

(d) For purposes of this section, ''real property'' means that appraisal unit that persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately.

(e) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property. However, for each lien date after the first lien date for which the taxable value of property is reduced pursuant to paragraph (2) of subdivision (a), the value of that property shall be annually reappraised at its full cash value as defined in Section 110 until that value exceeds the value determined pursuant to paragraph (1) of subdivision (a). In no event shall the assessor condition the implementation of the preceding sentence in any year upon the filing of an assessment appeal.

SEC. 1.5. Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple changes in ownership or multiple completions of new construction, or both, with respect to the same real property during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

(d) No supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), or (3), as follows:

(1) The fourth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed.

(2) The sixth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed, if the penalty provided for in Section 504 is added to the assessment.

(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership or change in control was unrecorded and a change in ownership statement required by Section 480 or preliminary change in ownership report, as required by Section 480.3, was not timely filed.

(4) Notwithstanding paragraphs (1), (2), and (3), there shall be no limitations period on making a supplemental assessment, if the penalty provided for in Section 503 is added to the assessment.

For the purposes of this subdivision, ''assessment year'' means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

(e) If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

SEC. 2. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of claims for exemption, except as provided in subdivision (d),

(e), or (f), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive a 100-percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

(2) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

(3) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available, but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(4) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each

supplemental assessment, if an appropriate application for exemption is thereafter filed.

Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that no claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption is in effect, a claim for any of those exemptions for a single supplemental assessment for a change in ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

(e) Notwithstanding subdivision (c), no additional exemption claim shall be required to be filed until the next succeeding lien date in the case in which a supplemental assessment results from the completion of new construction on property that has previously been granted exemption on either the current roll or the roll being prepared.

(f) (1) Notwithstanding subdivision (c), no additional exemption claim shall be required to be filed until the next succeeding lien date in the instance where a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use. If a timely application for exemption is not filed on the next succeeding lien date, then the provisions of paragraph (1) of subdivision (c) shall apply.

(2) In all other instances where a supplemental assessment results from a change in ownership of property, an application for exemption shall be filed pursuant to the provisions of subdivision (c).

SEC. 3. Section 75.31 of the Revenue and Taxation Code is amended to read:

75.31. (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property that has changed ownership, or the new base year value of the completed new construction that shall be added to the existing taxable value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between January 1 and May 31, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any, on the current roll or the roll being prepared.

(6) The date the notice was mailed.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution that generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for exemption that is to be filed within 30 days of the date of the notice.

(c) (1) The notice shall advise the assessee of the right to an informal review and the right to appeal the supplemental assessment, and, unless subject to paragraph (2) or (3), that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmark date therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(2) For counties in which the board of supervisors has adopted the provisions of subdivision (c) of Section 1605, the notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal shall, except as provided in paragraph (3), be filed within 60 days of the date of mailing printed on the tax bill or the postmark date therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) (A) If the taxpayer does not receive a notice in accordance with this section at least 15 days prior to the deadline to file the application described in Section 1603, the affected party or his or her agent may file an application within 60 days of the date of mailing printed on the tax

bill or the postmark thereof, whichever is later, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(B) Notwithstanding any other provision of this subdivision, an application for reduction in a supplemental assessment may be filed within 12 months following the month in which the assessee is notified of that assessment, if the affected party or his or her agent and the assessor stipulate that there is an error in assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and the assessed value is filed in accordance with Section 1607.

(d) The notice shall advise the assessee of both of the following:

(1) The requirements, procedures, and deadlines with respect to an application for the reduction of a base year value pursuant to Section 80, or the reduction of an assessment pursuant to Section 1603.

(2) The criteria under Section 51 for the determination of taxable value, and the requirement of Section 1602 that the custodial officer of the local roll make the roll, or a copy thereof, available for inspection by all interested parties during regular office hours.

(e) The notice shall advise the assessee that if the supplemental assessment is a negative amount the auditor shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(f) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

(g) The notice given by the assessor under this section shall be on a form prescribed by the State Board of Equalization.

SEC. 4. Section 227 of the Revenue and Taxation Code is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 4 percent of its full cash value only if the vessel is engaged or employed exclusively in any of the following:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes.

(b) In instruction or research studies as an oceanographic research vessel.

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes and holds a current certificate of inspection issued by the United States Coast Guard. A vessel shall not be deemed to be engaged or employed in activities other than the carrying or transporting of seven or more persons for hire for commercial passenger fishing purposes by reason of that vessel being used occasionally for dive, tour, or whale watching purposes. For purposes of

this subdivision, ''occasionally'' means 15 percent or less of the total operating time logged for the immediately preceding assessment year.

SEC. 4.6. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e) any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described

in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, ''market data'' means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her

representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

SEC. 4.7. Section 532 of the Revenue and Taxation Code is amended to read:

532. (a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 must be added shall be made within six years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an ''unrecorded change in ownership or change in control'' means a deed or other document evidencing a change in ownership that was not filed with the county recorder's office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership and either the penalty provided for in Section 503 must be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed with respect to the event giving rise to the escape assessment or underassessment, an escape assessment shall be made for each year in which the property escaped taxation or was underassessed.

(c) For purposes of this section, ''assessment year'' means the period defined in Section 118.

SEC. 5. Section 534 of the Revenue and Taxation Code is amended to read:

534. (a) Assessments made pursuant to Article 3 (commencing with Section 501) or this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied, except that the tax rate for years prior to the 1981–82 fiscal year shall be divided by four.

(b) No assessment described in subdivision (a) shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his or her address as contained in the official records of the county assessor. For purposes of Section 532, the assessment shall be deemed made on the date on which it is entered on the roll pursuant to Section 533, if the assessee is notified of the assessment within 60 days after the statute of limitations or the placing of the escape assessment on the assessment roll. Otherwise the assessment shall be deemed made only on the date the assessee is so notified.

(c) The notice given by the assessor pursuant to this section shall include all of the following:

(1) The date the notice was mailed.

(2) Information regarding the assessee's right to an informal review and the right to appeal the assessment, and except in a case in which paragraph (3) applies, that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmarked date therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) For counties in which the board of supervisors has adopted a resolution in accordance with subdivision (c) of Section 1605, the notice shall advise the assessee of the right to appeal the assessment, and that the appeal shall be filed within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(4) A description of the requirements, procedures, and deadlines with respect to an application for the reduction of an assessment pursuant to Section 1605.

(d) (1) The notice given by the assessor under this section shall be on a form prescribed by the board.

(2) Giving of the notice required by Section 531.8 shall not satisfy the requirements of this section.

SEC. 5.5. Section 674 of the Revenue and Taxation Code is amended to read:

674. (a) All contracts for the performance of appraisal work for assessors by any person who is not an employee of the state, any county, or any city shall be entered into only after at least two competitive bids and shall be entered into either on a fixed fee basis or on the basis of an hourly rate with a maximum dollar amount.

(b) In addition to any provision in the Real Estate Appraisers' Licensing and Certification Law (Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code), a contractor shall maintain the confidentiality of assessee information and records as provided in Sections 408, 451, and 481 that is obtained in performance of the contract.

(1) A request for information and records from an assessee shall be made by the assessor. The assessor may authorize a contractor to request additional information or records, if needed. However, a contractor shall not request that information or records without the written authorization of the assessor.

(2) A contractor shall not provide appraisal data in his or her possession to the assessor or a contractor of another county who is not a party to the contract. An assessor may provide that data to the assessor of another county as provided in subdivision (b) of Section 408.

(c) A contractor may not retain information contained in, or derived from, an assessee's confidential information and records after the conclusion, termination, or nonrenewal of the contract. Within 90 days of the conclusion, termination, or nonrenewal of the contract, the contractor shall:

(1) Purge and return to the assessor any assessee records, whether originals, copies, or electronically stored, provided by the assessor or otherwise obtained from the assessee.

(2) Provide a written declaration to the assessor that the contractor has complied with this subdivision.

(d) All contracts entered into pursuant to subdivision (a) shall include a provision incorporating the requirements of subdivisions (b) and (c). This provision of the contract shall use language that is prescribed by the State Board of Equalization.

(e) For purposes of this section, a ''contractor'' means any person who is not an employee of the state, any county, or any city who performs appraisal work pursuant to a contract with an assessor.

SEC. 6. Section 731 of the Revenue and Taxation Code is amended to read:

731. Each year between the first day of January and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee that a petition for reassessment of the unitary property may be filed, not later than July 20 of the year of the notice, at the headquarters of the board in Sacramento.

SEC. 7. Section 732 of the Revenue and Taxation Code is amended to read:

732. Each year between the first day of January and the last day of July, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee that a petition for reassessment of the nonunitary property may be filed, not later than September 20 of the year of the notice, at the headquarters of the board in Sacramento.

SEC. 8. Section 733 of the Revenue and Taxation Code is amended to read:

733. (a) If a timely petition for reassessment is not filed with the board, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified for filing a petition in the notice given in accordance with Section 731 or Section 732.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

SEC. 9. Section 746 of the Revenue and Taxation Code is amended to read:

746. Each year, upon or prior to the completion of the assessment roll prepared by the board, but not later than June 15, the board shall mail notice to each assessee at its address as shown on the records of the board, of the allocated assessed values of the assessee's unitary property that have been or are proposed to be placed on the assessment roll to be transmitted to county auditors. The notice shall advise the assessee that a petition for a correction of an allocated assessment may be filed, not later than July 20 of the year of the notice, at the headquarters of the board in Sacramento.

SEC. 10. Section 748 of the Revenue and Taxation Code is amended to read:

748. Upon receipt of a timely petition for correction of an allocated assessment, the board shall set a time and place within the state for hearing on the petition. Notice thereof shall be mailed to the assessee at its address as shown on the records of the board not less than 10 working days in advance of the date of the hearing.

SEC. 11. Section 749 of the Revenue and Taxation Code is amended to read:

749. Section 743 shall be applicable to hearings on petitions for correction of an allocated assessment and the board shall notify the petitioner of its decision by mail. The decision shall include written findings and conclusions of the board if requested at or prior to the commencement of the hearing. Decisions of the board on petitions for

correction of an unallocated assessment shall be completed on or before December 31.

SEC. 12. Section 758 of the Revenue and Taxation Code is amended to read:

758. If the board roll has been transmitted to the local auditors, the board may make an assessment of escaped property or a roll correction. At least 30 days prior to transmitting a statement of assessment of escaped property or making a roll correction, the board shall notify the assessee whose property's full value has increased as a result of an escape assessment or roll correction of the assessed value of that property as it shall appear on the corrected roll. The notice shall be mailed to the assessee at its address shown in the records of the board. The notice shall advise the assessee of the date by which and the place where a petition for reassessment may be filed. The date for filing the petition shall not be less than 50 days from the date of the mailing of the notice of value. The provisions of Sections 741 to 744, inclusive, shall be applicable to petitions and hearings pursuant to this section except for the dates prescribed for decisions of the board.

SEC. 13. Section 759 of the Revenue and Taxation Code is amended to read:

759. (a) If a timely petition for reassessment is not filed in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for filing a petition for reassessment specified by that notice.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

SEC. 14. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at the assessee's address as contained in the official records of the county assessor. For purposes of this subdivision, for counties in which the board of supervisors has adopted the provisions of subdivision (c) and counties of the first class, receipt by the assessee of a tax bill based on that assessment shall suffice as the notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, the assessment shall be subject to review, equalization and adjustment by the county board. In the case of an assessment made pursuant to Article 3 (commencing with Section 501) or Article 4

(commencing with Section 531) of Chapter 3 of Part 2, the application shall be filed with the clerk no later than 60 days after the date of mailing printed on the notice of assessment, or the postmark therefor, whichever is later. For counties in which the board of supervisors has adopted a resolution in accordance with subdivision (c), and counties of the first class, an application subject to the preceding sentence shall be filed within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later. If the taxpayer does not receive the notice of assessment described in Section 534 at least 15 calendar days prior to the deadline to file the application described in Section 1603, the party affected, or his or her agent, may file the application within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(c) The board of supervisors of any county may by resolution require that the application for reduction pursuant to subdivision (a) of Section 1603 be filed with the clerk no later than 60 days after the date of mailing printed on the tax bill or the postmark therefor, whichever is later.

(d) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for those assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for those assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.5, shall be prescribed by rules adopted by the board of supervisors.

(e) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to this chapter, except in those instances when that property had previously been equalized for the year in question by the county board of equalization or assessment appeals board. The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. Receipt by the assessee of a tax bill based upon that assessment shall suffice as that notice.

(f) For purposes of subdivision (a), ''regular assessment period'' means January 1 to and including July 1 of the calendar year in which

the assessment, other than escape assessments, should have been enrolled if it had been timely made.

SEC. 15. Section 17935 of the Revenue and Taxation Code is amended to read:

17935. (a) For each taxable year beginning on or after January 1, 1997, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 18633 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153.

(b) (1) In addition to any limited partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 of the Corporations Code, shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation is filed on behalf of the limited partnership with the office of the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.

(2) If a taxpayer files a return with the Franchise Tax Board that is designated its final return, that board shall notify the taxpayer that the minimum tax is due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.

(c) The tax imposed under this section shall be due and payable on the date the return is required to be filed under former Section 18432 or 18633.

(d) For purposes of this section, ''limited partnership'' means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.

(e) Notwithstanding subdivision (b), any limited partnership that ceased doing business prior to January 1, 1997, filed a final return with the Franchise Tax Board for a taxable year ending before January 1, 1997, and filed a certificate of dissolution with the Secretary of State pursuant to Section 15623 of the Corporations Code prior to January 1, 1997, shall not be subject to the tax imposed by subdivision (b) of this section for any period following the date the certificate of dissolution was filed with the Secretary of State, but only if the limited partnership files a certificate of cancellation with the Secretary of State pursuant to Section 15623 of the Corporations Code. In the case where a notice of

proposed deficiency assessment of tax or a notice of tax due (whichever is applicable) is mailed after January 1, 2001, the first sentence of this subdivision shall not apply unless the certificate of cancellation is filed with the Secretary of State not later than 60 days after the date of the mailing of the notice.

SEC. 16. Section 19052 is added to the Revenue and Taxation Code, to read:

19052. Notwithstanding any other provision of this part to the contrary, denial of credits or refunds claimed on or after January 1, 2001, in accordance with Section 17052.6 may be made pursuant to Section 19051, except that in these cases claimants shall have the right of protest and appeal provided by this part.

SEC. 17. Section 19236 of the Revenue and Taxation Code is amended to read:

19236. For purposes of issuing a warrant pursuant to this article:

(a) (1) No levy may be issued on any property or right to property to be sold in accordance with the Code of Civil Procedure until a thorough investigation of the status of the property has been completed by the Franchise Tax Board.

(2) For purposes of paragraph (1), an investigation of the status of any property shall include all of the following:

(A) A verification of the taxpayer's liability.

(B) The completion of an analysis to determine whether the expense of the sale process to the state exceeds the liability for which the levy would be issued.

(C) The determination that the equity in the property is sufficient to yield net proceeds from the sale of the property to apply to the liability.

(D) A thorough consideration of alternative collection methods.

(b) If the amount of the levy does not exceed five thousand dollars ($5,000), no levy may be issued on either of the following:

(1) Any real property used as a residence by the taxpayer.

(2) Any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

(c) Notwithstanding the investigation required under subdivision (a):

(1) The principal residence of the taxpayer may not be sold except in accordance with Article 4 (commencing with Section 704.710) of Chapter 4 of Division 2 of Title 9 of the Code of Civil Procedure, which requires a court order for sale.

(2) Tangible personal property or real property (other than real property which is rented or a principal residence) used in the trade or business of an individual taxpayer may not be levied unless:

(A) The levy is approved in writing by the assistant executive officer for collection (or delegate), or

(B) The Franchise Tax Board finds that collection of tax is in jeopardy. The officer, or delegate, may not approve a levy under subparagraph (A) unless the officer determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

(d) This section shall be operative for any warrant issued on or after the effective date of the act adding this section.

SEC. 18. The amendments to Section 17935 of the Revenue and Taxation Code made by Section 15 of this act are consistent with the amendments made by Section 54 of Chapter 987 of the Statutes of 1999, and are declaratory of existing law.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

CHAPTER 648

An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offender registration.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 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 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) may

disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(o) Agencies disseminating information to the public pursuant to Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) (1) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, ''law enforcement agency'' means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(q) (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. 1.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence,

while located within California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or 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. The official shall at the same time forward a current photograph of the person 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 a current 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 a current 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) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(o) Agencies disseminating information to the public pursuant to Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) (1) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, ''law enforcement agency'' means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(q) (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. 2. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 266j; Section 267; Section 269; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the attempted commission of any of these offenses; or the statutory predecessor of any of these offenses or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a ‘‘900’’ telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the name or address of a listed person’s employer, or the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed,

based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the name or address of a listed person's employer, or the listed person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall update and distribute the CD-ROM or other electronic medium on a monthly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following: The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the designated law enforcement agency's office. A person under 18 years of age may accompany an applicant who is that person's parent or legal

guardian for the purpose of viewing the CD-ROM or other electronic medium.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the ''900'' telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the ''900'' telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the ''900'' telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

(i) Notice that the caller's telephone number will be recorded.

(ii) The charges for use of the ''900'' telephone number.

(iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the ''900'' telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars ($600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information, for purposes relating to any of the following, and that is disclosed pursuant to this section, is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the ''900'' telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the ''900'' telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the ''900'' telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the ''900'' telephone number program based upon selected factors.

(i) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, ''law enforcement agency'' means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the ''900'' telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the ''900'' telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the ''900'' telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member

of the public who makes an inquiry using the ''900'' telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the ''900'' telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) On or before July 1, 2001, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(n) This section shall remain operative only until January 1, 2004, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and SB 446. 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 290 of the Penal Code, and (3) this bill is enacted after SB 446, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

CHAPTER 649

An act to amend Section 290 of the Penal Code, relating to registered sex offenders.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. It is the intent of the Legislature that photographs available to the public of persons required to register as convicted sex offenders pursuant to Section 290 of the Penal Code be current.

SEC. 2. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence or location within, any city, county, or city and county, or campus in which he or she temporarily resides, or, if he or she has no residence, is located.

(B) If the person who is registering has more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 90 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her

registration with the entities described in subparagraph (A), including, verifying his or her name and address, or temporary location, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section

311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) or any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, which demonstrate that the person's conviction pursuant to either of those

sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with

Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person 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 a current 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 a current 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. 2.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or 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. The official shall at the same time forward a current photograph of the person 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 a current 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 a current 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) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(o) Agencies disseminating information to the public pursuant to Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) (1) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, ''law enforcement agency'' means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(q) (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. 3. Section 2.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1340. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 1340, in which case Section 2 of this bill shall not become operative.

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 650

An act to add Section 14060.6 to the Corporations Code, relating to small business development.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 14060.6 is added to the Corporations Code, to read:

14060.6. (a) The Legislature finds and declares that the Small Business Loan Guarantee Program has enabled participating small businesses that do not qualify for conventional business loans or Small Business Administration loans to secure funds to expand their businesses. These small businesses would not have been able to expand their businesses in the absence of the program. The program has also provided valuable technical assistance to small businesses to ensure

growth and stability. The study commissioned by Section 14069.6, as added by Chapter 919 of the Statutes of 1997, documented the return on investment of the program and the need for its services. The value of the program has also been recognized by the Governor through proposals contained in the May revision to the Budget Act of 2000 for the 2000–01 fiscal year.

(b) Notwithstanding Section 14060.5, the Trade and Commerce Agency shall establish new small business financial development corporations pursuant to the procedures otherwise established by this chapter in the following areas:

(1) San Jose.

(2) Santa Ana.

(3) San Fernando Valley.

(4) Ontario.

(c) Each of the small business financial development corporations, upon the recommendation of the board and at least once each year, shall make a presentation and overview of the corporation's business operations to the board.

CHAPTER 651

An act to add Section 5070 to the Vehicle Code, relating to cancer.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 5070 is added to the Vehicle Code, to read:

5070. (a) The department shall design and make available for issuance pursuant to this article special breast cancer treatment license plates as described in this section. The special breast cancer treatment license plate shall bear a graphic design depicting the same logo as the United States postal stamp with the words ''Fund the Fight. Find a Cure'' over the sketch of a woman and the breast cancer awareness pink ribbon symbol. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of special breast cancer treatment license plates. Notwithstanding subdivision (a) of Section 5060, the special breast cancer treatment license plates may be issued as breast cancer license plates, as defined in Section 5103.

(b) In addition to the regular fees for an original registration, renewal of registration, transfer, or substitution of the license plates, the

following additional fees shall be paid for the issuance, renewal, retention, transfer, or replacement of the special interest license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates, or the retention of the plates if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108, which shall be deposited in the Environmental License Plate Fund.

(c) Except as provided in paragraph (5) of subdivision (b), all fees collected under this section shall, after deduction of the department's costs in administering this section, be deposited in the Breast Cancer Treatment Account, which is hereby created in the Breast Cancer Fund, as that fund is established in Section 30461.6 of the Revenue and Taxation Code. The funds in the account shall be used by the State Department of Health Services, upon appropriation by the Legislature, to award grants to fund breast cancer treatment for uninsured or underinsured persons who are at, or below, the 200-percent federal poverty level, as that level is determined by the United States Department of Health and Human Services.

CHAPTER 652

An act to amend Section 4801 of the Penal Code, relating to imprisonment.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 4801 of the Penal Code is amended to read:

4801. (a) The Board of Prison Terms may report to the Governor, from time to time, the names of any and all persons imprisoned in any state prison who, in its judgment, ought to have a commutation of sentence or be pardoned and set at liberty on account of good conduct, or unusual term of sentence, or any other cause, including evidence of battered woman syndrome. For purposes of this section, ''evidence of battered woman syndrome'' may include evidence of the effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or

behavior of victims of domestic violence where it appears the criminal behavior was the result of that victimization.

(b) The Board of Prison Terms, in reviewing a prisoner's suitability for parole pursuant to Section 3041.5, shall consider any information or evidence that, at the time of the commission of the crime, the prisoner had suffered from battered woman syndrome, but was convicted of the offense prior to the enactment of Section 1107 of the Evidence Code by Chapter 812 of the Statutes of 1991. The board shall state on the record the information or evidence that it considered pursuant to this subdivision, and the reasons for the parole decision. The board shall annually report to the Legislature and the Governor on the cases the board considered pursuant to this subdivision during the previous year, including the board's decision and the findings of its investigations of these cases.

CHAPTER 653

An act to amend Section 14006 of the Penal Code, relating to gangs.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 14006 of the Penal Code is amended to read:

14006. The CLEAR project shall remain operative until January 1, 2004, and as of that date, this title is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date. Implementation of this project is contingent upon a Budget Act appropriation.

CHAPTER 654

An act to amend Section 13848.6 of, and to repeal Section 13848.7 of, the Penal Code, relating to crime.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 13848.6 of the Penal Code is amended to read:

13848.6. (a) The High Technology Crime Advisory Committee is hereby established for the purpose of formulating a comprehensive written strategy for addressing high technology crime throughout the state and to advise the Office of Criminal Justice Planning on the appropriate disbursement of funds to regional task forces.

(b) This strategy shall be designed to be implemented through regional task forces. In formulating that strategy, the committee shall identify various priorities for law enforcement attention, including the following goals:

(1) To apprehend and prosecute criminal organizations, networks, and groups of individuals engaged in the following activities:

(A) Theft of computer components and other high technology products.

(B) Violations of Penal Code Sections 211, 350, 351a, 459, 496, 537e, 593d, and 593e.

(C) Theft of telecommunications services and other violations of Penal Code Sections 502.7 and 502.8.

(D) Counterfeiting of negotiable instruments and other valuable items through the use of computer technology.

(E) Creation and distribution of counterfeit software and other digital information, including the use of counterfeit trademarks to misrepresent the origin of that software or digital information.

(2) To apprehend and prosecute individuals and groups engaged in the unlawful access, destruction, or unauthorized entry into and use of private, corporate, or government computers and networks, including wireless and wireline communications networks and law enforcement dispatch systems, and the theft, interception, manipulation, destruction, and unauthorized disclosure of data stored within those computers.

(3) To apprehend and prosecute individuals and groups engaged in the theft of trade secrets.

(4) To investigate and prosecute high technology crime cases requiring coordination and cooperation between regional task forces and local, state, federal, and international law enforcement agencies.

(c) The Executive Director of the Office of Criminal Justice Planning shall appoint the following members to the committee:

(1) A designee of the California District Attorneys Association.

(2) A designee of the California State Sheriffs Association.

(3) A designee of the California Police Chiefs Association.

(4) A designee of the Attorney General.

(5) A designee of the California Highway Patrol.

(6) A designee of the High Tech Criminal Investigators Association.

(7) A designee of the Office of Criminal Justice Planning.

(8) A designee of the American Electronic Association to represent California computer system manufacturers.

(9) A designee of the American Electronic Association to represent California computer software producers.

(10) A designee of the California Cellular Carriers Association.

(11) A designee of the California Internet Industry Alliance.

(12) A designee of the Semiconductor Equipment and Materials International.

(13) A designee of the California Cable Television Association.

(14) A designee of the Motion Picture Association of America.

(15) A designee of either the California Telephone Association or the California Association of Long Distance Companies. This position shall rotate every other year between designees of the two associations.

(16) A designee of the Science and Technology Agency, if Senate Bill 1136 is enacted, and, as enacted, creates the Science and Technology Agency, otherwise, a designee of the Department of Information Technology.

(d) The Executive Director of the Office of Criminal Justice Planning shall designate the Chair of the High Technology Crime Advisory Committee from the appointed members.

(e) The advisory committee shall not be required to meet more than 12 times per year. The advisory committee may create subcommittees of its own membership, and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all advisory committee members shall actively participate in all advisory committee deliberations required by this chapter.

Any member who, without advance notice to the executive director and without designating an alternative representative, misses three scheduled meetings in any calendar year for any reason other than severe temporary illness or injury (as determined by the Executive Director of the Office of Criminal Justice Planning) shall automatically be removed from the advisory committee. If a member wishes to send an alternative representative in his or her place, advance written notification of this substitution shall be presented to the executive director. This notification shall be required for each meeting the appointed member elects not to attend.

Members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for travel and per diem expenses incurred as a result of attending meetings sponsored by the Office of Criminal Justice Planning under this chapter.

(f) The executive director, in consultation with the High Technology Crime Advisory Committee, shall develop specific guidelines and administrative procedures for the selection of projects to be funded by the High Technology Theft Apprehension and Prosecution Program, which guidelines shall include the following selection criteria:

(1) Each regional task force that seeks funds shall submit a written application to the committee setting forth in detail the proposed use of the funds.

(2) In order to qualify for the receipt of funds, each proposed regional task force submitting an application shall provide written evidence that the agency meets either of the following conditions:

(A) The regional task force devoted to the investigation and prosecution of high technology-related crimes is comprised of local law enforcement and prosecutors, and has been in existence for at least one year prior to the application date.

(B) At least one member of the task force has at least three years of experience in investigating or prosecuting cases of suspected high technology crime.

(3) In order to qualify for funds, a regional task force shall be comprised of local law enforcement and prosecutors from at least two counties. At the time of funding, the proposed task force shall also have at least one investigator assigned to it from a state law enforcement agency. Each task force shall be directed by a local steering committee composed of representatives of participating agencies and members of the local high technology industry.

(4) Additional criteria that shall be considered by the advisory committee in awarding grant funds shall include, but not be limited to, the following:

(A) The number of high technology crime cases filed in the prior year.

(B) The number of high technology crime cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, or corporations, as a result of the high technology crime cases filed, and those under active investigation by that task force.

(5) Each regional task force that has been awarded funds authorized under the High Technology Theft Apprehension and Prosecution Program during the previous grant-funding cycle, upon reapplication for funds to the committee in each successive year, shall be required to submit a detailed accounting of funds received and expended in the prior year in addition to any information required by this section. The accounting shall include all of the following information:

(A) The amount of funds received and expended.

(B) The use to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) The number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds.

(g) The committee shall annually review the effectiveness of the regional task forces created in deterring, investigating, and prosecuting high technology crimes and provide its findings in a report to the Legislature and the Governor. This report shall be based on information provided by the regional task forces in an annual report to the committee which shall detail the following:

(1) Facts based upon, but not limited to, the following:

(A) The number of high technology crime cases filed in the prior year.

(B) The number of high technology crime cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The number of convictions obtained in the prior year.

(E) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, corporations, and other relevant public entities, according to the number of cases filed, investigations, prosecutions, and convictions obtained.

(2) An accounting of funds received and expended in the prior year, which shall include all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of supplies, and other expenditures of funds.

(C) Any other relevant information requested.

SEC. 2. Section 13848.7 of the Penal Code is repealed.

CHAPTER 655

An act to amend Section 99400.7 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 99400.7 of the Public Utilities Code is amended to read:

99400.7. Notwithstanding Sections 99232, 99268.3, and 99405, cities within the County of San Diego may file a claim under this article with the transportation planning agency to provide commuter ferry service on San Diego Bay for the purpose of serving peak period commute trips for pedestrians and bicycles. The commuter ferry service may be located anywhere on San Diego Bay, but shall be consistent with

the regional transportation plan, shall serve employment centers and high volume activity centers, and may be provided by contract with operators, private entities operating under a franchise or license, or nonprofit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

CHAPTER 656

An act to amend Sections 14556.5, 14556.26, 14556.40, 14556.50, and 14556.52 of, to add Section 14556.29 to, and to repeal Section 14556.40 of, the Government Code, to amend Section 7104 of the Revenue and Taxation Code, to amend Sections 2182 and 2182.1 of the Streets and Highways Code, and to repeal Section 21 of Chapter 91 of the Statutes of 2000, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 14556.5 of the Government Code is amended to read:

14556.5. The Traffic Congestion Relief Fund is hereby created in the State Treasury. The fund shall include deposits of funds 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 statute. Notwithstanding Section 13340, the money in the fund is hereby continuously appropriated to the department, without regard to fiscal years, as follows:

(a) For allocation by the department, 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).

(b) For allocation by the Controller, the sum of four hundred million dollars ($400,000,000), for allocation during the 2000–01 fiscal year to cities, counties, and cities and counties pursuant to Section 2182 of the Streets and Highways Code.

(c) For allocation by the commission to the funding exchange program authorized by Section 182.8 of the Streets and Highways Code.

SEC. 2. Section 14556.26 of the Government Code is amended to read:

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 average of its annual expenditures during the 1997–98, 1998–99, and 1999–2000 fiscal years, 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.

SEC. 3. Section 14556.29 is added to the Government Code, to read:

14556.29. The Controller shall develop a system that provides access to funds allocated by the commission under this article from the Traffic Congestion Relief Fund by electronic transfer of funds.

SEC. 4. Section 14556.40 of the Government Code, as added by Section 1 of Chapter 92 of the Statutes of 2000, is repealed.

SEC. 5. Section 14556.40 of the Government Code, as added by Section 6 of Chapter 91 of the Statutes of 2000, is amended to read:

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 Santa Clara 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, Bernal 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 Santa Clara Valley Transportation Authority.

(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, terminal connection, 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; the Hercules Rail Station and related improvements, West Contra Costa County and Route 4 Corridors in Alameda and Contra Costa Counties. Seventeen million dollars ($17,000,000). Of the amount specified, seven million dollars ($7,000,000) shall be made available for the Route 4 Corridor study and improvements, seven million dollars ($7,000,000) shall be made available for the I-580 Corridor study and improvements, and three million dollars ($3,000,000) shall be made available for the Hercules Rail Station study and improvements. The lead applicant for the Hercules Rail Station and related improvements in west Contra Costa County is the Contra Costa County Transportation Authority. The lead applicants, for the I-580 Livermore Study and improvements are the Alameda County Congestion Management Authority and the San Francisco Bay Area Rapid Transit District. The lead applicants for the Route 4 Corridor study and improvements are the Contra Costa County Transportation Authority and the San Francisco Bay Area Rapid Transit District.

(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-occupancy 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 San Francisco 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 San Francisco 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 (San Mateo), 25th Avenue or vicinity (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, Sonoma, Marin, Mendocino and Humboldt Counties. Sixty million dollars ($60,000,000). The lead applicant is the North Coast Rail Authority. Except for the amounts specified in paragraph (1) of subdivision (a) and subdivision (b) of Section 14456.50, no part of the specified amount may be made available to the authority until it has made a full accounting to the commission demonstrating that the expenditure of funds provided to the authority in the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) was consistent with the limitations placed on those funds in that Budget Act.

(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 City of San Buenaventura.

(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 Burlington Northern-Santa Fe and Union Pacific Railroad 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 Burlington Northern-Santa Fe and Union Pacific Railroad lines, with rail-to-rail separation at Colton through 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, including, but not limited to, the 14th Street Bridge over Wilson Creek, 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 Burlington Northern-Santa Fe 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 Port of San Diego.

(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 California State University at Fresno. 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) Campus Parkway; build new arterial in Merced County from Route 99 to Bellevue Road. 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 17th 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 light rail tracks from 7th Street and K Street to the Amtrak Depot in downtown Sacramento, and extend Folsom light rail from Mather Field Station to downtown Folsom. Add a new vehicle storage and maintenance facility in the area between the Sunrise Boulevard and Hazel Avenue 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 Yolo bus 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 applicants are the Sacramento Regional Transit District, the Sacramento Area Council of Governments, and the Yolo Bus Authority.

(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.

(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; traffic and pedestrian safety and 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.

(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.

(138) Cross Valley Rail; upgrade track from Visalia to Huron. Four million dollars ($4,000,000). 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. Two million dollars ($2,000,000). The lead applicant is the City of West Hollywood.

(144) Seismic retrofit of the national landmark Golden Gate Bridge. Five million dollars ($5,000,000). 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.

(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 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 134/I-5 Interchange study. One hundred thousand dollars ($100,000). The lead applicant is the department.

(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, Mateo Street, and Porter 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.

SEC. 6. Section 14556.50 of the Government Code is amended to read:

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 as directed by the commission at its first scheduled meeting 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 as directed by the commission 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 as directed by the commission at its first scheduled meeting 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 six 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 six 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 six 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.

SEC. 7. Section 14556.52 of the Government Code is amended to read:

14556.52. (a) 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 and the Riverside County Transportation Commission. 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. Based on the good faith participation of the stakeholders, 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.

(b) Funds may be allocated from the fund to produce the report required under this section.

SEC. 8. Section 7104 of the Revenue and Taxation Code is amended to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(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 and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic 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 expenditure 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 Controller for apportionment 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 the Controller for apportionment to cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds 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, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(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 any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(4) For purposes of paragraph (2), 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.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) 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 (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) 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 (2).

(7) 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) For the purpose of allocating funds under this section to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(i) This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2006, whichever date is later, and as of the January 1 immediately following that date is repealed.

SEC. 9. Section 2182 of the Streets and Highways Code is amended to read:

2182. (a) The funds appropriated from the Traffic Congestion Relief Fund pursuant to subdivision (b) of Section 14556.5 of the Government Code 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.

(d) For the purpose of allocating funds under this section to cities, counties, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

SEC. 10. Section 2182.1 of the Streets and Highways Code is amended to read:

2182.1. (a) The Legislature finds and declares that it intends cities and counties to use the funds made available under subdivision (b) of Section 14556.5 of the Government Code 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 any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(d) For purposes of subdivision (b), 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.

(e) The Controller may perform audits to ensure compliance with subdivision (b) when deemed necessary. Any city or county that has not complied with subdivision (b) 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 (b) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(f) If a city or county fails to comply with the requirements of subdivision (b) 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 (b).

(g) 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. 11. Section 21 of Chapter 91 of the Statutes of 2000 is repealed.

SEC. 12. The following amounts are hereby appropriated for the following purposes:

(a) The sum of one million nine hundred thousand dollars ($1,900,000) from the Public Transportation Account in the State Transportation Fund to the Capitol Corridors Joint Powers Authority for the purpose of expanding intercity rail service in the Capitol Corridor.

(b) (1) The sum of twelve million dollars ($12,000,000) from the Public Transportation Account in the State Transportation Fund to the

Bay Area Water Transit Authority to fund the environmental impact reports and design functions specified in Chapter 1011 of the Statutes of 1999.

(2) Of the amount specified in paragraph (1), six million dollars ($6,000,000) shall be available no sooner than 30 days after the Bay Area Water Transit Authority submits a work plan to the appropriate legislative fiscal committees and the Joint Legislative Budget Committee. The work plan shall specify the intended work elements to be accomplished in the budget year, when the work will be initiated and is projected to be completed, and the cost associated with each item of work.

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:

This act helps to create a significant program designed to reduce traffic congestion, which will improve the health and safety of the public. In order for the program enhanced by this act to be implemented as soon as possible, it is necessary that this take effect immediately.

CHAPTER 657

An act to amend Section 647.6 of the Penal Code, relating to children.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 647.6 of the Penal Code is amended to read:

647.6. (a) Every person who annoys or molests any child under the age of 18 shall be punished by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(b) Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(c) (1) Every person who violates this section shall be punished upon the second and each subsequent conviction by imprisonment in the state prison.

(2) Every person who violates this section after a previous felony conviction under Section 261, 264.1, 269, 285, 286, 288a, 288.5, or 289, any of which involved a minor under the age of 16 years, or a previous felony conviction under this section, a conviction under Section 288, or a felony conviction under Section 311.4 involving a minor under the age of 14 years shall be punished by imprisonment in the state prison for two, four, or six years.

(d) (1) In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

(2) In any case in which a person is convicted of violating this section, and as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact shall not be modified except upon the request of the victim and a finding by the court that the modification is in the best interest of the victim. As used in this paragraph, ''contact with the victim'' includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

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 658

An act to add Article 3.5 (commencing with Section 11180) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to the Interstate Compact for the Supervision of Adult Offenders.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Article 3.5 (commencing with Section 11180) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

Article 3.5. Interstate Compact for Adult Offender Supervision

11180. The Interstate Compact for Adult Offender Supervision as contained herein is hereby enacted into law and entered into on behalf of the state with any and all other states legally joining therein in a form substantially as follows:

Preamble

Whereas: The interstate compact for the supervision of Parolees and Probationers was established in 1937. It is the earliest corrections ''compact'' established among the states and has not been amended since its adoption over 62 years ago.

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines and it currently has jurisdiction over more than a quarter of a million offenders.

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration.

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability.

Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the Legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers on the effective date of this Compact.

Be it enacted by the General Assembly (Legislature) of the state of California.

Short title: This Act may be cited as The Interstate Compact for Adult Offender Supervision.

Article I. Purpose

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and

encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits, and obligations of the compact among the compacting states. In addition, this compact will: create an Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no ''right'' of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

Article II. Definitions

As used in this compact, unless the context clearly requires a different construction:

''Adult'' means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

''By-laws'' mean those by-laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

''Compact Administrator'' means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

''Compacting state'' means any state which has enacted the enabling legislation for this compact.

''Commissioner'' means the voting representative of each compacting state appointed pursuant to Article III of this compact.

''Interstate Commission'' means the Interstate Commission for Adult Offender Supervision established by this compact.

''Member'' means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

''Non Compacting state'' means any state which has not enacted the enabling legislation for this compact.

''Offender'' means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

''Person'' means any individual, corporation, business enterprise, or other legal entity, either public or private.

''Rules'' means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

''State'' means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

''State Council'' means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

Article III. The Compact Commission

The compacting states hereby create the ''Interstate Commission for Adult Offender Supervision.''

The Interstate Commission shall be a body corporate and joint agency of the compacting states.

The Interstate Commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of the State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary. Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the By-laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the Interstate Commission and performs other duties as directed by the Commission or set forth in the By-laws.

Article IV. The State Council

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each

compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

Article V. Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

To adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission.

To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission.

To enforce compliance with compact provisions, Interstate Commission rules, and by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process.

To establish and maintain offices.

To purchase and maintain insurance and bonds.

To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

To establish a budget and make expenditures and levy dues as provided in Article X of this compact.

To sue and be sued.

To provide for dispute resolution among Compacting States.

To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

To establish uniform standards for the reporting, collecting, and exchanging of data.

Article VI. Organization and Operation of the Interstate Commission

Section A. By-laws

The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt By-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

Establishing the fiscal year of the Interstate Commission.

Establishing an executive committee and such other committees as may be necessary.

Providing reasonable standards and procedures:

(i) For the establishment of committees.

(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission; providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting; establishing the titles and responsibilities of the officers of the Interstate Commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of

its debts and obligations; providing transition rules for ''start up'' administration of the compact; establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the By-laws. The chairperson, or in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

Section D. Qualified Immunity, Defense and Indemnification

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. The Interstate Commission shall defend the Commissioner of a Compacting State, or his or her representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities;

provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgement obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Article VII. Activities of the Interstate Commission

The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The By-laws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's By-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or

copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the ''Government in Sunshine Act,'' 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

Relate solely to the Interstate Commission's internal personnel practices and procedures.

Disclose matters specifically exempted from disclosure by statute.

Disclose trade secrets or commercial or financial information which is privileged or confidential.

Involve accusing any person of a crime, or formally censuring any person.

Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Disclose investigatory records compiled for law enforcement purposes.

Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote

(reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in such minutes. The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its By-laws and Rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

Article VIII. Rulemaking Functions of the Interstate Commission

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

Rulemaking shall occur pursuant to the criteria set forth in this Article and the By-laws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter ''APA''). All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

Publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule.

Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available.

Provide an opportunity for an informal hearing.

Promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside. Subjects to be addressed within 12 months after the first meeting must at a minimum include:

Notice to victims and opportunity to be heard.

Offender registration and compliance.

Violations/returns.

Transfer procedures and forms.

Eligibility for transfer.

Collection of restitution and fees from offenders.

Data collection and reporting.

The level of supervision to be provided by the receiving state.

Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

Mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superceded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

Article IX. Oversight, Enforcement, and Dispute Resolution by the Interstate Commission

Section A. Oversight

The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a By-law or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

Section C. Enforcement

The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, Section B, of this compact.

Article X. Finance

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its By-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Article XI. Compacting States, Effective Date and Amendment

Any state, as defined in Article II of this compact, is eligible to become a Compacting State. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35

of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

Article XII. Withdrawl, Default, Termination, and Judicial Enforcement

Section A. Withdrawal

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact (''Withdrawing State'') by enacting a statute specifically repealing the statute which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal. The Withdrawing State shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State. The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof. The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission.

Section B. Default

If the Interstate Commission determines that any Compacting State has at any time defaulted (''Defaulting State'') in the performance of any of its obligations or responsibilities under this Compact, the By-laws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties: Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission. Remedial training and technical assistance as directed by the Interstate Commission; suspension and termination of membership in the

compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the By-laws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission By-laws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State. Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated Rules and By-laws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the By-laws.

Article XIII. Severability and Construction

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

Article XIV. Binding Effect of Compact and Other Laws

Section A. Other Laws

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all Rules and By-laws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

11181. (a) There is hereby established the California Council for Interstate Adult Offender Supervision. The council shall be responsible

for the appointment of the Commissioner who shall represent California and serve on the Interstate Commission for Adult Offender Supervision. The Commissioner shall also be the Compact Administrator for the State of California for purposes of the Interstate Compact for Adult Offender Supervision. The Commissioner/Compact Administrator shall be appointed for a term of two years.

(b) The council shall determine the qualifications of the Compact Administrator, and shall exercise oversight and advocacy concerning its participation in Interstate Commission activities, and other duties as may be determined by the Legislature or Governor, including but not limited to, development of policy concerning operations and procedures of the compact within the state.

(c) There shall be seven members of the council. The Governor shall appoint four members, one of whom shall represent victims rights groups, and one of whom shall represent local compact administrators. One member each shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly. The Judicial Council shall appoint one superior court judge as a member.

(d) Each member of the council shall serve for a term of two years. Council members shall not be compensated, except for reasonable per diem expenses related to their work for council purposes.

CHAPTER 659

An act to add Sections 1077, 1078, and 1755.4 to the Welfare and Institutions Code, relating to the Department of the Youth Authority.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 1077 is added to the Welfare and Institutions Code, to read:

1077. (a) Any psychologist employed by or who contracts with the Department of the Youth Authority to provide services to wards under the jurisdiction of the department shall be licensed to practice in this state.

(b) Any psychologist employed by the department on July 1, 1999, shall be exempt from the requirements of subdivision (a), as long as he or she continues employment with the department in the same class.

(c) The requirements of subdivision (a) may be waived in order for a person to gain qualifying expertise for licensure as a psychologist in this state in accordance with Section 1277 of the Health and Safety Code.

SEC. 2. Section 1078 is added to the Welfare and Institutions Code, to read:

1078. To the extent that funding is available, the department, in consultation with the State Department of Mental Health, shall develop training in the treatment of children and adolescents for mental health disorders and shall provide training to all appropriate mental health professionals.

SEC. 3. Section 17554 is added to the Welfare and Institutions Code, to read:

1755.4. The Department of the Youth Authority, in consultation with the State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 2001, standards and guidelines for the administration of psychotropic medications to any person under the jurisdiction of the Department of the Youth Authority, in a manner that protects the health and short- and long-term well-being of those persons. The standards and guidelines adopted pursuant to this section shall be consistent with the due process requirements set forth in Section 2600 of the Penal Code.

CHAPTER 660

An act to add Article 23 (commencing with Section 2500) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

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

(a) California is experiencing and witnessing the emergence amongst thousands if not millions of its people a fascination with and commitment to the philosophies and methodologies of alternative ways of health and healing, commonly known as holistic health, integrative medicine, humanistic medicine, or complementary health.

(b) California is also witnessing the emergence of more and more providers who are committed to these alternative modalities of health and healing, while there has been far too little effort expended to

understand and appreciate both the alleged benefits and the alleged damages attendant to those practices.

(c) In order to assure the people of California the dual goals of the most beneficial balance of access to these new modalities and the protection of their health and well-being, a wide-open study should be undertaken of these emerging modalities in order to seek to ascertain whether and how the state should best reconceptualize and redesign its structures of governance of health care provider practice in order to guarantee these dual goals.

SEC. 2. The Legislature hereby intends to commission a comprehensive review by the Medical Board of California and the Osteopathic Medical Board of California into the emergence of the phenomenon of holistic health, together with an assessment of whether and how the boards should redesign their systems of operation so as to meet the goals expressed in subdivision (c) of Section 1.

SEC. 3. Article 23 (commencing with Section 2500) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 23. Alternative Practices and Treatments

2500. The boards acknowledge the significant interest of physicians and patients alike in integrating preventative approaches and holistic-based alternatives into the practice of medicine, including, but not limited to, biopsychosocial techniques, nutrition, and the use of natural supplements to enhance health and wellness. The boards shall establish specific policies in this regard and shall review statutes and recommend modifications of law, when appropriate, in order to assure California consumers that the quality of medicine practiced in this state is the most advanced and innovative it can be both in terms of preserving the health of, as well as providing effective diagnosis and treatment of illness for, the residents of this state.

2501. In fulfilling their responsibilities under this article, the boards shall , on or before July 1, 2002, establish disciplinary policies and procedures to reflect emerging and innovative medical practices for licensed physicians and surgeons. The boards shall solicit the participation of interested parties in the development and preparation of these policies and procedures and shall consult technical advisors as necessary to fulfill the purposes of this article. In preparing these policies and procedures, the boards shall consult with professional medical associations and review the need for any changes in the boards' services, procedures, and activities. The boards shall also assess the need for:

(a) Specific standards for informed consent, if any, in order for patients to be able to understand the risks and benefits associated with the range of treatment options available.

(b) Standards for investigations to assure competent review in cases involving the practice of any type of alternative medicine, including, but not limited to, the skills and training of investigators.

SEC. 4. The University of California is requested to review the state of knowledge and emerging research regarding alternative and complementary health, focusing on cancer treatments and therapies, for the purposes of assisting the Governor and the Legislature in preparing relevant information, analyses, and recommendations to assure that California consumers diagnosed with cancer have the best range of treatment and therapeutic choices.

CHAPTER 661

An act to add Section 33333.7 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 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 enable the Redevelopment Agency of the City and County of San Francisco to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts. San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it has consistently exceeded the housing production goals of the Community Redevelopment Law and has used local funds beyond the Low and Moderate Income Housing Fund to assist affordable housing development. San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis.

(b) The Legislature finds and declares that prior to the enactment of the replacement housing obligations in Section 33413 of the Health and Safety Code (Chapter 970, Statutes of 1975), agencies destroyed or removed dwelling units housing persons and families of low or moderate income without replacing those units. In particular, some of San Francisco's existing redevelopment project areas have fewer housing units affordable to low- and moderate-income households than were in existence prior to the initiation of urban renewal activities. Four of San

Francisco's project areas adopted prior to 1970 experienced a combined net loss of approximately 7,000 units of housing affordable to low- and moderate-income households since the initiation of redevelopment activities. The Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in these project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.

(c) The Legislature further finds and declares that allowing the Redevelopment Agency of the City and County of San Francisco to replace units destroyed or removed prior to the enactment of the replacement housing obligations in 1975 is consistent with a fundamental purpose of the Community Redevelopment Law identified in subdivision (a) of Section 33334.6 of the Health and Safety Code, namely the provision of affordable housing.

(d) The Legislature further finds and declares that the time limits for incurring indebtedness in Section 33333.6 of the Health and Safety Code impede the efforts of the Redevelopment Agency of the City and County of San Francisco to replace affordable housing units destroyed or removed prior to the enactment of the replacement housing obligations in 1975.

(e) The Legislature further finds and declares that the Redevelopment Agency of the City and County of San Francisco should be granted a limited continuance of specific tax increment financing powers to achieve its goal of replacing housing units, and that this continuance will have no fiscal impact on the state.

(f) This limited continuance in no way affords the Redevelopment Agency of the City and County of San Francisco an extension of any of its powers, above and beyond tax increment financing and the collection of tax increment to repay indebtedness exclusively to support Low and Moderate Housing Fund activities, nor does it signify the extension or expansion of the redevelopment plans or activities to which paragraph (1) of subdivision (a) of Section 33333.6 of the Health and Safety Code applies.

SEC. 2. Section 33333.7 is added to the Health and Safety Code, to read:

33333.7. (a) Notwithstanding the time limits in paragraph (1) of subdivision (a) of Section 33333.6, the Redevelopment Agency of the City and County of San Francisco may, subject to the approval of the Board of Supervisors of the City and County of San Francisco, retain its ability to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities eligible under Sections 33334.2 and 33334.3 until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing

obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier. The ability of the agency to receive tax increment revenues to repay indebtedness incurred for these Low and Moderate Income Housing Fund activities may be extended until no later than January 1, 2044. Nothing in this paragraph shall be construed to extend a plan's effectiveness, except to incur additional indebtedness for Low and Moderate Income Housing Fund activities, to pay previously incurred indebtedness, and to enforce existing covenants, contracts, or other obligations.

(b) Annual revenues shall not exceed the amount necessary to fund the Low and Moderate Income Housing Fund activities of the agency. The agency shall neither collect nor spend more than 10 percent for the planning and administrative costs authorized pursuant to subdivision (e) of Section 33334.3. Revenues received under this paragraph shall not exceed the amount of tax increment received and allocated to the agency pursuant to the plan, as it has been amended, less the amount necessary to pay prior outstanding indebtedness, and less the amount of the project area's property tax revenue that school entities are entitled to receive pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code if the plan had not been amended. Additionally, revenues collected under this paragraph are subject to the payments to affected taxing entities pursuant to Section 33607.

(c) The activities conducted with revenues received under this paragraph shall be consistent with the policies and objectives of the community's housing element, as reviewed and approved by the department, and shall address the unmet housing needs of very low, low- and moderate-income households. The activities shall also be consistent with the community's most recently approved consolidated and annual action plans submitted to the United States Department of Housing and Urban Development, and if the director deems it necessary, the annual action plans shall be submitted to the department on an annual basis. No less than 50 percent of the revenues received shall be devoted to assisting in the development of housing that is affordable to very low income households.

(d) The agency shall not incur any indebtedness pursuant to this paragraph until the director certifies, after consulting with the agency, the net difference between the number of housing units affordable to persons and families of low and moderate income that the agency destroyed or removed prior to January 1, 1976, and the number of housing units affordable to persons and families of low and moderate income that the agency rehabilitated, developed, or constructed, or caused to be rehabilitated, developed, or constructed within the project areas adopted prior to January 1, 1976.

(e) The agency shall not incur any indebtedness pursuant to this paragraph unless the director of the department certifies annually, prior to the creation of indebtedness, all of the following:

(1) The community has a current housing element 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.

(2) The community's housing element indicates an unmet need for Low and Moderate Income Housing Fund activities.

(3) The agency's most recent independent financial audit report prepared pursuant to Section 33080.1 reports acceptable findings and no major violations of this part.

(4) The agency has complied with subdivision (a) of Section 33334.2.

(5) The agency has met the requirements of this part with respect to the provision of dwelling units for persons and families of low or moderate income, including, but not limited to, the requirements of Section 33413.

CHAPTER 662

An act to amend Sections 47763.5 and 47771.5 of the Education Code, relating to high-risk youth, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 47763.5 of the Education Code is amended to read:

47763.5. (a) Effective July 1, 2000, and in addition to funds from all other sources and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion to each county office of education or school district that operates a program under this chapter six thousand dollars ($6,000) per year for each unit of average daily attendance reported at the annual apportionment for pupil attendance in a program under this chapter.

(b) The average daily attendance for a program under this chapter shall be determined by dividing the total number of days of attendance in all full school months by a divisor of 135 for the first period of each fiscal year, by a divisor of 180 for the second period of each fiscal year, and by a divisor of 250 for the annual time of each fiscal year.

(c) Effective July 1, 2000, and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion to each county office of education or school district that operates a program under this chapter a sum equal to ten dollars ($10), multiplied by the total of the number of hours each schoolday that follow completion of the full instructional day, not to exceed six hours per schoolday, that each high-risk first-time offender pupil receives services, as specified in the individual case management plan pursuant to paragraph (1) of subdivision (c) of Section 47761, when those services are provided by one or more employees of one or more of the agencies that are parties to the approved plans developed pursuant to Section 47761.

(d) Effective July 1, 2000, and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion, to each county office of education or school district that operates a program under this chapter on days other than schooldays, a sum equal to ten dollars ($10), multiplied by the total of the number of hours, not to exceed 10 hours per calendar day that is not a schoolday that each high-risk first-time offender pupil receives services, as specified in the individual case management plan pursuant to paragraph (1) of subdivision (c) of Section 47761, when those services are provided by one or more employees of one or more of the agencies that are parties to the approved plans developed pursuant to Section 47761.

(e) Effective July 1, 2000, and notwithstanding any other provision of this section, a county office of education or school district shall receive an apportionment pursuant to subdivision (c) only for days on which a high-risk first-time offender pupil was required to attend any specified setting or settings in which services are provided for a total of at least eight hours each day as specified in his or her individual case management plan developed pursuant to Section 47761.

(f) The funds provided in this chapter shall be used only for the purpose of implementing the plans determined to be eligible for funding by the Superintendent of Public Instruction pursuant to Section 47756.

(g) Notwithstanding Section 42238.18, a county office of education implementing a plan pursuant to this chapter may use funds apportioned pursuant to this chapter to provide for the services of probation officers.

(h) Notwithstanding any other provision of this section, the funding provided for in this chapter shall be apportioned only to the extent that funds are appropriated for that purpose in the annual Budget Act or other legislation, or both.

(i) Notwithstanding any other provision of law, a pupil's eligibility to attend the program for high-risk first-time offenders shall cease on the second anniversary of his or her first day of attendance in the program.

(j) Effective July 1, 2000, and notwithstanding any other provision of this section, a county office of education or school district that operates

a program under this chapter shall not be eligible to receive an apportionment pursuant to this section in excess of the product of the average number of pupils, per calendar day between July 1 and June 30, inclusive, enrolled to receive services in a program for high-risk first-time offenders, multiplied by twelve thousand dollars ($12,000).

(k) Notwithstanding any other provision of law, the Superintendent of Public Instruction may provide an apportionment to a county office of education or school district for startup costs, from the funds provided for the purposes of this chapter during the first year that a county office of education or a school district operates a program, if each of the following conditions is met:

(1) The county office of education or school district has submitted an application for startup funding to the Superintendent of Public Instruction by September 1, 1999, for the 1998–99 fiscal year, and for each fiscal year thereafter, not later than January 31st of the fiscal year for which startup funding is sought.

(2) The amount apportioned by the Superintendent of Public Instruction for startup funding pursuant to this subdivision may not exceed 15 percent of the county office of education's or school district's maximum permitted apportionment for the fiscal year startup funding is sought.

(3) Total funding for programs operated pursuant to this chapter, including funding for startup costs, may not exceed the recipient's maximum permitted apportionment for the fiscal year startup funding is sought.

(4) At the final apportionment for the fifth year of program operation, or at the final apportionment for the last year of program operation if the program operates for fewer than five years, the apportionment for a county office of education or school district operating a program under this chapter shall be reduced by the difference between the amount of startup funding apportioned pursuant to paragraph (2) and an amount equal to 15 percent of the maximum apportionment earned, for other than startup funding, in any one of the first five years of program operation.

(5) Approved startup costs may not include indirect costs, as defined in the California School Accounting Manual, or board and superintendent costs. If startup costs include personnel costs, those costs shall be documented by employee time records.

SEC. 2. Section 47771.5 of the Education Code is amended to read:

47771.5. (a) Effective July 1, 2000, and in addition to funds from all other sources and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion to each county office of education or school district that operates a program under this chapter six thousand dollars ($6,000) per year for each unit of average

daily attendance reported at the annual apportionment for pupil attendance in a program under this chapter.

(b) The average daily attendance for a program under this chapter shall be determined by dividing the total number of days of attendance in all full school months by a divisor of 135 for the first period of each fiscal year, by a divisor of 180 for the second period of each fiscal year, and by a divisor of 250 for the annual time of each fiscal year.

(c) Effective July 1, 2000, and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion to each county office of education or school district that operates a program under this chapter a sum equal to ten dollars ($10), multiplied by the total of the number of hours each schoolday that follow completion of the full instructional day, not to exceed six hours per schoolday that each transitioning high-risk youth enrolled in a program for transitioning high-risk youth receives services, as specified in the individual case management plan pursuant to clause (i) of subparagraph (B) of paragraph (3) of subdivision (a) of Section 47766, when those services are provided by one or more employees of one or more of the agencies that are parties to the approved plans developed pursuant to Section 47766.

(d) Effective July 1, 2000, and subject to the limitation in subdivision (h), the Superintendent of Public Instruction shall apportion, to each county office of education or school district that operates a program under this chapter on days other than schooldays, a sum equal to ten dollars ($10), multiplied by the total of the number of hours, not to exceed 10 hours per calendar day that is not a schoolday, that each transitioning high-risk youth receives services, as specified in the individual case management plan pursuant to clause (i) of subparagraph (B) of paragraph (3) of subdivision (a) of Section 47766, when those services are provided by one or more employees of one or more of the agencies that are parties to the approved plans developed pursuant to Section 47766.

(e) Effective July 1, 2000, and notwithstanding any other provision of this section, a county office of education or school district shall receive an apportionment pursuant to subdivision (c) only for days on which a transitioning high-risk youth was required to attend any specified setting or settings in which services are provided for a total of at least eight hours each day as specified in his or her individual case management plan developed pursuant to Section 47766.

(f) The funds provided in this chapter shall be used only for the purpose of implementing the plans determined to be eligible for funding by the Superintendent of Public Instruction pursuant to Section 47756.

(g) Notwithstanding Section 42238.18, a county office of education implementing a plan pursuant to this chapter may use funds apportioned pursuant to this chapter to provide for the services of probation officers.

(h) Notwithstanding any other provision of law, the funding provided for in this chapter shall be apportioned only to the extent that funds are appropriated for that purpose in the annual Budget Act or other legislation, or both.

(i) Notwithstanding any other provision of law, a pupil's eligibility to attend a program for transitioning high-risk youth shall cease on the second anniversary of his or her first day of attendance in the program.

(j) Effective July 1, 2000, and notwithstanding any other provision of this section, a county office of education or school district that operates a program under this chapter shall not be eligible to receive an apportionment pursuant to this section in excess of the product of the average number of pupils, per calendar day between July 1 and June 30, inclusive, enrolled to receive services in a program for transitioning high-risk youth, multiplied by twelve thousand dollars ($12,000).

(k) Notwithstanding any other provision of law, the Superintendent of Public Instruction may provide an apportionment to a county office of education or school district for startup costs, from the funds provided for the purposes of this chapter during the first year that a county office of education or a school district operates a program, if each of the following conditions is met:

(1) The county office of education or school district has submitted an application for startup funding to the Superintendent of Public Instruction by September 1, 1999, for the 1998–99 fiscal year, and for each fiscal year thereafter, not later than January 31st of the fiscal year for which startup funding is sought.

(2) The amount apportioned by the Superintendent of Public Instruction for startup funding pursuant to this subdivision may not exceed 15 percent of the county office of education's or school district's maximum permitted apportionment for the fiscal year startup funding is sought.

(3) Total funding for programs operated pursuant to this chapter, including funding for startup costs, may not exceed the recipient's maximum permitted apportionment for the fiscal year startup funding is sought.

(4) At the final apportionment for the fifth year of program operation, or at the final apportionment for the last year of program operation if the program operates for fewer than five years, the apportionment for a county office of education or school district operating a program under this chapter shall be reduced by the difference between the amount of startup funding apportioned pursuant to paragraph (2) and an amount equal to 15 percent of the maximum apportionment earned, for other

than startup funding, in any one of the first five years of program operation.

(5) Approved startup costs may not include indirect costs, as defined in the California School Accounting Manual, or board and superintendent costs. If startup costs include personnel costs, those costs shall be documented by employee time records.

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 the necessary funding for the High-Risk First-Time Offenders Program and the Transitioning High-Risk Youth Program at the earliest opportunity, it is necessary that this measure take effect immediately.

CHAPTER 663

An act to amend Section 629 of the Welfare and Institutions Code, relating to juvenile offenders.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 629 of the Welfare and Institutions Code is amended to read:

629. (a) As a condition for the release of a minor pursuant to Section 628.1 and subject to Sections 631 and 632, the probation officer shall require the minor to sign, and may also require his or her parent, guardian, or relative to sign, a written promise to appear before the probation officer at the juvenile hall or other suitable place designated by the probation officer at a specified time.

(b) A minor who is 14 years of age or older who is taken into custody by a peace officer for the commission or attempted commission of a felony offense shall not be released until the minor has signed a written promise to appear before the probation officer at the juvenile hall or other suitable place designated by the peace officer, or has been given an order to appear at the juvenile court on a date certain. The peace officer may also require the minor's parent, guardian, or relative to sign a written promise to appear at the same place designated for the minor.

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 664

An act to add Chapter 8 (commencing with Section 17998) to Part 1.5 of Division 13 of, and to repeal Section 17998.2 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 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, as a result, to 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 as 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 compared with 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 construction-related code enforcement activities, which generate fees to pay for regulatory services, including building and permit inspections, rather than housing maintenance activities that prevent or abate substandard conditions.

(g) The enforcement of housing maintenance 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 through timely and effective administrative or judicial proceedings.

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 to grantees through December 31, 2003.

(b) The city, county, or city and county shall provide a cash or in-kind local match of at least 25 percent in the first year, at least 50 percent in the second year, and at least 75 percent in the third year.

(c) The maximum grant to a single recipient shall not exceed one million dollars ($1,000,000). The department may establish minimum grant levels.

(d) Funds may be used to supplement, but shall not supplant, existing local funding for code enforcement related to housing code maintenance. The applicants shall demonstrate an intent to ensure cooperative and effective working relationships between code enforcement officials and local prosecutorial agencies, the local health department, and local government housing rehabilitation financing agencies.

(e) On or before June 30, 2004, grant recipients shall submit a report to their local legislative bodies and to the department regarding the results of the expanded housing maintenance code enforcement efforts and recommendations for changes in state or local laws and regulations related to code enforcement. The department shall summarize the results and transmit the reports to the Legislature by December 31, 2004. The department may require submission of interim progress reports.

(f) The department may use up to 5 percent of the funds appropriated by the Legislature for administering the programs authorized by this chapter.

(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 neighborhoods populated by high percentages of lower income households, with significant numbers of deteriorating housing stock containing reported or suspected housing code violations and often owned by 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. Eligibility criteria, applications, awards, and other program requirements implementing 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.

17998.2. (a) It is the intent of the Legislature in the enactment of this section to do all of the following:

(1) Initiate a coordinated active community approach to code enforcement.

(2) Create a pilot program in which the department awards grants to communities that develop a code enforcement program pursuant to the criteria established by this section.

(3) Substantially reduce the incidence of substandard housing through the use of creative and coordinated techniques of code enforcement involving an interdepartmental approach at the local government level.

(b) The grant program established pursuant to this section shall be known as the Community Code Enforcement Pilot Program. The Department of Housing and Community Development shall administer the Community Code Enforcement Pilot Program.

(1) The department need not adopt regulations for the program. The department shall publish and distribute a Notice of Funding Availability that contains application forms and instructions, eligibility criteria, criteria for the rating and ranking of applications, outcome evaluation criteria, interim or final reporting requirements, and other information that the department considers necessary or useful for implementation of the program.

(2) The department shall review, rate, and rank applications based on its evaluation of the information provided pursuant to subdivision (e), and their projected program performance as measured by all of the following criteria, considering the size of the applicant community:

(A) The minimum number of housing units affordable to lower income households that will be rehabilitated or otherwise brought into compliance with applicable building and housing codes.

(B) The estimated amount of grants and low interest rehabilitation loan funds, from sources other than this program, that will be made

available to the owners of housing units affordable to lower income households that are determined to need rehabilitation or repair pursuant to the program.

(C) The incidence of poverty and deteriorating housing or housing code violations in each target area.

(3) The department shall attempt to award community code enforcement pilot program grants to cities, counties, and cities and counties with a wide range of population sizes and compositions and geographical distribution.

(c) The department shall award community code enforcement pilot program grants for programs that shall operate until December 31, 2003. The grants shall not exceed four hundred fifty thousand dollars ($450,000), which shall pay for costs incurred over the life of the program. The department may establish minimum grant levels.

(d) Each city, county, or city and county receiving a grant shall develop a code enforcement team consisting of a least one full-time code enforcement officer and a part-time city planner, health officer, or comparable specialist. Each grantee shall provide, and fund at its own expense, at least one city planner, health officer, or comparable specialist for the duration of the pilot program, for a minimum of 20 hours per week. The grant funds shall be used for the code enforcement officer and related program costs, which may include full-time or part-time personnel, in addition to the grantee's contributions.

(e) Grant proposals shall include all of the following:

(1) Demonstration of serious, current housing code enforcement deficiencies within each target area, whether those code deficiencies are in violation of locally enacted ordinances or state codes.

(2) A plan to have high visibility of code enforcement staff and to create close and frequent communication and interaction with residents and property owners of the target area, including in the evenings and on weekends.

(3) A plan to convene community meetings to inform residents of the pilot program.

(4) A plan to conduct ongoing frequent informal and formal community meetings with the code enforcement team and residents of the community involved in the pilot program.

(5) A plan demonstrating an intent to ensure cooperative and effective working relationships between code enforcement officials, local health department officials, local prosecutorial agencies, and officials operating local programs providing public funds to finance affordable rental housing rehabilitation and repairs.

(6) A plan for timely and effective administrative and judicial enforcement of code violations.

(f) The administrator of each grantee's pilot program shall evaluate the pilot program and report the findings and other criteria requested by the department indicating the effectiveness of the pilot program to the department by June 30, 2004. The administrator shall evaluate the pilot program based on criteria including, but not limited to, the following:

(1) Results of a participant survey, including owners, residents, and active community leaders.

(2) Comparison of each targeted area with similar neighborhoods with respect to repeat calls for service and other criteria testing the effectiveness of the pilot program.

(3) The extent of any perceived or actual property value change between the commencement and the completion of the pilot program.

(4) The number of cases opened and the number of cases closed, identifying the nature of code violations, the necessity of formal proceedings, the cost and nature of abatement violations, or other factors influencing the effectiveness of the pilot program.

(g) The department shall review and report to the Legislature by December 31, 2004, on the findings of the pilot program administrators.

(h) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

17998.3. In implementing the programs governed by this chapter, the department has all the general powers granted to it by Division 31 (commencing with Section 50000).

SEC. 2. (a) Of the amount appropriated in Item 2240-112-0001 of Section 2.00 of the Budget Act of 2000, two million two hundred fifty thousand dollars ($2,250,000) shall be used by the Department of Housing and Community Development to implement Section 17998.2 of the Health and Safety Code as enacted by Section 1 of this act.

(b) Any funds not awarded by December 31, 2001, for the purposes of the program authorized by Section 17998.2 of the Health and Safety Code as enacted by Section 1 of this act shall be utilized by the Department of Housing and Community Development for the program authorized by Section 17998.1 of the Health and Safety Code as enacted by Section 1 of this act.

SEC. 3. If this act becomes operative on or before January 1, 2001, then Chapter 8 (commencing with Section 17998) of Part 1.5 of Division 13 of the Health and Safety Code, as added by Chapter 82 of the Statutes of 2000, shall not become operative.

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CHAPTER 665

An act to add Sections 65891.3, 65891.5, 65891.11, and 65891.12 to the Government Code, and to add Sections 50542.1, 50543, and 50546 to the Health and Safety Code, relating to balancing jobs and housing.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 65891.3 is added to the Government Code, to read:

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) Under the current land use and policy framework, 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, while also complementing existing collaborative regional organizations, including, but not limited to, the Bay Area Alliance for Sustainable Development, the Bay Area Council, the Silicon Valley Manufacturing Group, the Great Valley Center, and others, in order to support optimal intra-regional accountability for growth.

(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 to balance job growth and housing growth 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.

SEC. 2. Section 65891.5 is added to the Government Code, to read:

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. The IRP shall collaborate with local governments and existing regional and subregional organizations committed to improving inter-regional jobs-housing balance. During this phase, a series of outreach meetings shall be held with local jurisdictions and the public to review and comment on the data and make recommendations for locations of jobs-housing opportunity zones. Public input and participation shall be encouraged throughout phase one of the IRP pilot project. 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) designed, where feasible, to be compatible with existing regional GIS systems. The IRP's GIS system shall enable 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, including, but not limited to, the Bay Area Regional Livability Footprint Project that integrates land use with transportation, housing, job, economic, social equity, and environmental overlays, 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, contamination, prime soils, open space, and important natural resources both inside and outside of urbanized areas.

(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 policy and regulatory 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 five to 10 official Inter-Regional Partnership Jobs-Housing Opportunity Zones located throughout the five county area. Using the GIS system and conferring with interested regional organizations and 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 work force housing supply, may receive incentives designed to promote employment development. Adoption of land use policies that protect agriculture and natural resources and promote compact, higher density, mixed use, transit-oriented development may be required as selection criteria for jobs-housing opportunity zones.

SEC. 3. Section 65891.11 is added to the Government Code, to read:

65891.11. The department may administer the programs set forth in this article, and the funds transferred by Item 2240-112-0001 of the Budget Act of 2000 to the Housing Rehabilitation Loan Fund established by Section 50661 of the Health and Safety Code, pursuant to guidelines that shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2.

SEC. 4. Section 65891.12 is added to the Government Code, to read:

65891.12. 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. 5. Section 50542.1 is added to the Health and Safety Code, to read:

50542.1. (a) The Jobs-Housing Balance Improvement Account is hereby created as a special fund in the State Treasury. All money in the fund shall be available, upon appropriation by the Legislature, to the Department of Housing and Community Development for the following purposes:

(1) To make grants to local agencies pursuant to Section 50543.

(2) To make grants to cities, counties, and cities and counties pursuant to Section 50544.

(3) For transfer to the Rental Housing Construction Fund pursuant to Sections 50543 and 50545.

(4) For the related administrative expenses of the department.

(b) There shall be paid into the fund, the following moneys:

(1) Any moneys that may be made available by the Legislature for the purposes of the fund.

(2) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

SEC. 6. Section 50543 is added to the Health and Safety Code, to read:

50543. (a) Five million dollars ($5,000,000) of the funds appropriated for purposes of this chapter in Item 2240-114-0001 of

Section 2.00 of the Budget Act of 2000 shall be transferred to the Rental Housing Construction Fund created pursuant to Section 50740 to 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.

SEC. 7. Section 50546 is added to the Health and Safety Code, to read:

50546. (a) The administrative expenses of the department shall not exceed 3 percent of the amount available for the purposes of this chapter.

(b) The department may administer the programs set forth in this chapter pursuant to guidelines that shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 8. This act shall become operative only if AB 2864 is enacted and becomes effective on or before January 1, 2001, in which case Sections 65891.3, 65891.5, and 65891.11 of the Government Code, and Sections 50543 and 50546 of the Health and Safety Code, as added by AB 2864, shall not become operative.

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CHAPTER 666

An act to amend Sections 65863.10 and 65863.11 of the Government Code, relating to housing.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 65863.10 of the Government Code is amended to read:

65863.10. (a) As used in this section, the following terms have the following meaning:

(1) ''Affected public entities'' means the mayor of the city in which the assisted housing development is located, or, if located in an unincorporated area, the chairperson of the board of supervisors of the county; the appropriate local public housing authority, if any; and the Department of Housing and Community Development.

(2) ''Affected tenant'' means a tenant household residing in an assisted housing development, as defined in paragraph (3), at the time notice is required to be provided pursuant to this section, that benefits from the government assistance.

(3) ''Assisted housing development'' means a multifamily rental housing development that receives governmental assistance under any of the following federal programs:

(A) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f).

(B) The following federal programs:

(i) The Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715*l*(d)(3) and (5)).

(ii) Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1).

(iii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q).

(C) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s).

(D) Programs under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485).

(E) Section 42 of the Internal Revenue Code.

(4) ''City'' means a general law city, a charter city, or a city and county.

(5) ''Prepayment'' means the payment in full or refinancing of the federally insured or federally held mortgage indebtedness prior to its original maturity date, or the voluntary cancellation of mortgage insurance, on an assisted housing development described in subparagraph (B) of paragraph (3) that would have the effect of removing the current low-income affordability restrictions contained in the applicable laws and the regulatory agreement.

(6) ''Termination'' means an owner's decision not to extend or renew its participation in a federal subsidy program for an assisted housing development described in subparagraph (A) of paragraph (3), either at or prior to the scheduled date of the expiration of the contract, or a decision to terminate the rental restrictions for an assisted housing development described in subparagraph (E) of paragraph (3), that may result in an increase in tenant rents or a change in the form of the subsidy from project-based to tenant-based.

(b) (1) At least 12 months prior to the anticipated date of termination of a subsidy contract, termination of rental restrictions, or prepayment on an assisted housing development, the owner proposing the termination or prepayment of governmental assistance shall provide a notice of the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities. The notice shall contain all of the following:

(A) In the event of termination, a statement that the owner intends to terminate the subsidy contract or rental restrictions upon its expiration date, or the expiration date of any contract extension thereto.

(B) In the event of prepayment, a statement that the owner intends to pay in full or refinance the federally insured or federally held mortgage indebtedness prior to its original maturity date, or voluntarily cancel the mortgage insurance.

(C) The anticipated date of the termination or prepayment of the federal program, and the identity of the federal program described in subdivision (a).

(D) A statement that the proposed change would have the effect of removing the current low-income affordability restrictions in the applicable contract or regulatory agreement.

(E) A statement of the possibility that the housing may remain in the federal program after the proposed date of termination of the subsidy contract or prepayment if the owner elects to do so under the terms of the federal government's offer.

(F) A statement that other governmental assistance may be provided to tenants residing in the development at the time of the termination of the subsidy contract or prepayment.

(G) A statement that a subsequent notice of the proposed change, including anticipated changes in rents, if any, for the development, will be provided at least six months prior to the anticipated date of termination of the subsidy contract or prepayment.

(H) A statement of notice of opportunity to submit an offer to purchase, as required in Section 65863.11.

(2) Notwithstanding paragraph (1), if an owner provides a copy of a federally required notice of termination of a subsidy contract or prepayment at least 12 months prior to the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities, the owner shall be deemed in compliance with this subdivision, if the notice is in compliance with all federal laws. However, the federally required notice need not satisfy the requirements of Section 65863.11.

(c) (1) At least six months prior to the anticipated date of termination of a subsidy contract or prepayment on an assisted housing development, the owner proposing the termination or prepayment of governmental assistance shall provide a notice of the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities.

(2) The notice to the tenants shall contain all of the following:

(A) The anticipated date of the termination or prepayment of the federal program, and the identity of the federal program, as described in subdivision (a).

(B) The current rent and anticipated new rent for the unit on the date of the prepayment or termination of the federal program.

(C) A statement that a copy of the notice will be sent to the city or county, or city and county, where the assisted housing development is located, to the appropriate local public housing authority, if any, and to the Department of Housing and Community Development.

(D) A statement of the possibility that the housing may remain in the federal program after the proposed date of subsidy termination or prepayment if the owner elects to do so under the terms of the federal government's offer.

(E) A statement of the owner's intention to participate in any current replacement federal subsidy program made available to the affected tenants.

(F) The name and telephone number of the city, county, or city and county, the appropriate local public housing authority, if any, the Department of Housing and Community Development, and a legal services organization, that can be contacted to request additional written

information about an owner's responsibilities and the rights and options of an affected tenant.

(3) In addition to the information provided in the notice to the affected tenant, the notice to the affected public entities shall contain information regarding the number of affected tenants in the project, the number of units that are government assisted and the type of assistance, the number of the units that are not government assisted, the number of bedrooms in each unit that is government assisted, and the ages and income of the affected tenants. The notice shall briefly describe the owner's plans for the project, including any timetables or deadlines for actions to be taken and specific governmental approvals that are required to be obtained, the reason the owner seeks to terminate the subsidy contract or prepay the mortgage, and any contacts the owner has made or is making with other governmental agencies or other interested parties in connection with the notice. The owner shall also attach a copy of any federally required notice of the termination of the subsidy contract or prepayment that was provided at least six months prior to the proposed change. The information contained in the notice shall be based on data that is reasonably available from existing written tenant and project records.

(d) The owner proposing the termination or prepayment of governmental assistance shall provide additional notice of any significant changes to the notice required by subdivision (c) within seven business days to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities. ''Significant changes'' shall include, but not be limited to, any changes to the date of termination or prepayment or the anticipated new rent.

(e) This section shall not require the owner to obtain or acquire additional information that is not contained in the existing tenant and project records, or to update any information in his or her records. The owner shall not be held liable for any inaccuracies contained in these records or from other sources, nor shall the owner be liable to any party for providing this information.

(f) For purposes of this section, service of the notice to the affected tenants, the city or county, the city and county, the appropriate local public housing authority, if any, and the Department of Housing and Community Development by the owner pursuant to subdivisions (b), (c), and (d) shall be made by first-class mail postage prepaid.

(g) Nothing in this section shall enlarge or diminish the authority, if any, that a city, county, city and county, affected tenant, or owner may have, independent of this section.

(h) If, prior to January 1, 2001, the owner has already accepted a bona fide offer from a qualified entity, as defined in subdivision (c) of Section 65863.11, and has complied with this section as it existed prior to

January 1, 2001, at the time the owner decides to sell or otherwise dispose of the development, the owner shall be deemed in compliance with this section.

(i) Injunctive relief shall be available to any party identified in paragraph (1) or (2) of subdivision (a) who is aggrieved by a violation of this section.

(j) The Director of Housing and Community Development shall approve forms to be used by owners to comply with subdivisions (b) and (c). Once the director has approved the forms, an owner shall use the approved forms to comply with subdivisions (b) and (c).

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

SEC. 2. Section 65863.11 of the Government Code is amended to read:

65863.11. (a) Terms used in this section shall be defined as follows:

(1) ''Assisted housing development'' and ''development'' mean a multifamily rental housing development as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(2) ''Owner'' means an individual, corporation, association, partnership, joint venture, or business entity that holds title to an assisted housing development.

(3) ''Tenant'' means a tenant, subtenant, lessee, sublessee, or other person legally in possession or occupying the assisted housing development.

(4) ''Tenant association'' means a group of tenants who have formed a nonprofit corporation, cooperative corporation, or other entity or organization, or a local nonprofit, regional, or national organization whose purpose includes the acquisition of an assisted housing development and that represents the interest of at least a majority of the tenants in the assisted housing development.

(5) ''Low or moderate income'' means having an income as defined in Section 50093 of the Health and Safety Code.

(6) ''Very low income'' means having an income as defined in Section 50052.5 of the Health and Safety Code.

(7) ''Local nonprofit organizations'' means not-for-profit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income, and which have a broadly representative board, a majority of whose members are community-based and have a proven track record of local community service.

(8) ''Local public agencies'' means housing authorities, redevelopment agencies, or any other agency of a city, county, or city and county, whether general law or chartered, which are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(9) ''Regional or national organizations'' means not-for-profit, charitable corporations organized on a multicounty, state, or multistate basis that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income.

(10) ''Regional or national public agencies'' means multicounty, state, or multistate agencies that are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(11) ''Use restriction'' means any federal, state, or local statute, regulation, ordinance, or contract that, as a condition of receipt of any housing assistance, including a rental subsidy, mortgage subsidy, or mortgage insurance, to an assisted housing development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within a development, imposes any restrictions on the maximum rents that could be charged for any of the units within a development; or requires that rents for any of the units within a development be reviewed by any governmental body or agency before the rents are implemented.

(12) ''Profit-motivated organizations and individuals'' means individuals or two or more persons organized pursuant to Division 1 (commencing with Section 100) of Title 1 of, Division 3 (commencing with Section 1200) of Title 1 of, or Division 1 (commencing with Section 15001) of Title 2 of, the Corporations Code, that carry on as a business for profit.

(13) ''Department'' means the Department of Housing and Community Development.

(14) ''Offer to purchase'' means an offer from a qualified or nonqualified entity that is nonbinding on the owner.

(b) An owner of an assisted housing development shall not terminate a subsidy contract or prepay the mortgage pursuant to Section 65863.10, unless the owner or its agent shall first have provided each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivision (h).

(c) An owner of an assisted housing development shall not sell, or otherwise dispose of, the development in a manner that would result in either (1) a discontinuance of its use as an assisted housing development, or (2) the termination of any low-income use restrictions that apply to the development, unless the owner or its agent shall first have provided

each of the entities listed in subdivision (d) an opportunity to submit an offer to purchase the development, in compliance with subdivision (h).

(d) The entities to whom an opportunity to purchase shall be provided include only the following:

(1) The tenant association of the development.

(2) Local nonprofit organizations and public agencies.

(3) Regional or national nonprofit organizations and regional or national public agencies.

(4) Profit-motivated organizations or individuals.

(e) For the purposes of this section, to qualify as a purchaser of an assisted housing development, an entity listed in subdivision (d) shall do all of the following:

(1) Be capable of managing the housing and related facilities for its remaining useful life, either by itself or through a management agent.

(2) Agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for either a 30-year period from the date that the purchaser took legal possession of the housing or the remaining term of the existing federal government assistance specified in subdivision (a) of Section 65863.10, whichever is greater. The development shall be continuously occupied in the approximate percentages that those households who have occupied that development on the date the owner gave notice of intent or the approximate percentages specified in existing use restrictions, whichever is higher. This obligation shall be recorded prior to the close of escrow in the office of the county recorder of the county in which the development is located and shall contain a legal description of the property, indexed to the name of the owner as grantor. An owner that obligates itself to an enforceable regulatory agreement that will ensure for a period of not less than 30 years that rents for units occupied by low- and very low income households or that are vacant at the time of executing a purchase agreement will conform with restrictions imposed by Section 42(f) of the Internal Revenue Code shall be deemed in compliance with this paragraph. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, should they be available, provided that assistance is at a level to maintain the project's fiscal viability.

(3) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

(f) If an assisted housing development is not economically feasible, as defined in paragraph (3) of subdivision (h) of Section 17058 of the

Revenue and Taxation Code, a purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as is necessary for the development to become economically feasible, provided that once the development is again economically feasible, the purchaser shall designate the next available units as low-income units up to the original number of those units.

(g) (1) If an owner decides to terminate a subsidy contract, or prepay the mortgage pursuant to Section 65863.10, or sell or otherwise dispose of the assisted housing development pursuant to subdivision (b) or (c), the owner shall first give notice of the opportunity to offer to purchase to each qualified entity on the list provided to the owner by the department, in accordance with subdivision (q), as well as to those qualified entities that directly contact the owner. The notice of the opportunity to offer to purchase must be given prior to or concurrently with the notice required pursuant to Section 65863.10 for a period of at least 12 months. The owner shall contact the department to obtain the list of qualified entities. The notice shall conform to the requirements of subdivision (h) and shall be sent to the entities by registered or certified mail, return receipt requested. The owner shall also post a copy of the notice in a conspicuous place in the common area of the development.

(2) If the owner already has a bona fide offer to purchase from an entity prior to January 1, 2001, at the time the owner decides to sell or otherwise dispose of the development, the owner shall not be required to comply with this subdivision. However, the owner shall notify the department of this exemption and provide the department a copy of the offer.

(h) The initial notice of a bona fide opportunity to submit an offer to purchase shall contain all of the following:

(1) A statement that the owner will make available to each of the type of entities listed in subdivision (d), within 15 business days of receiving a request therefor, the terms of assumable financing, if any; the terms of the subsidy contract, if any; and proposed improvements to the property to be made by the owner in connection with the sale, if any.

(2) A statement that each of the type of entities listed in subdivision (d) has the right to purchase the development under this section.

(3) A statement that the owner will make available to each of the type of entities listed in subdivision (d), within 15 business days of receiving a request therefor, itemized lists of monthly operating expenses, capital improvements as determined by the owner made within each of the two preceding calendar years, the amount of project reserves, and copies of the two most recent financial and physical inspection reports on the development, if any, filed with the federal, state, or local agencies.

(4) A statement that the owner will make available to each of the entities listed in subdivision (d), within 15 business days of a request

therefor, the most recent rent roll listing the rent paid for each unit and the subsidy, if any, paid by a governmental agency as of the date the notice of intent was made pursuant to Section 65863.10, and a statement of the vacancy rate at the development for each of the two preceding calendar years.

(5) A statement that the owner has satisfied all notice requirements pursuant to subdivision (b) of Section 65863.10, unless the notice of opportunity to submit an offer to purchase is delivered more than 12 months prior to the anticipated date of termination of prepayment.

(i) If a qualified entity elects to purchase an assisted housing development, it shall make a bona fide offer to purchase the development. A qualified entity's bona fide offer to purchase shall identify whether it is a tenant association, nonprofit organization, public agency, or profit-motivated organizations or individuals and shall certify, under penalty of perjury, that it is qualified pursuant to subdivision (e). During the first 180 days from the date of an owner's bona fide notice of the opportunity to submit an offer to purchase, an owner shall accept a bona fide offer to purchase only from a qualified entity. During this 180-day period, the owner shall not accept offers from any other entity.

(j) When a bona fide offer to purchase has been made to an owner, and the offer is accepted, a purchase agreement shall be executed.

(k) Either the owner or the qualified entity may request that the fair market value of the property, as a development, be determined by an independent appraiser qualified to perform multifamily housing appraisals, who shall be selected and paid by the requesting party. All appraisers shall possess qualifications equivalent to those required by the members of the Appraisers Institute. This appraisal shall be nonbinding on either party with respect to the sales price of the development offered in the bona fide offer to purchase, or the acceptance or rejection of the offer.

(*l*) During the 180-day period following the initial 180-day period required pursuant to subdivision (i), an owner may accept an offer from a person or an entity that does not qualify under subdivision (e). This acceptance shall be made subject to the owner providing each qualified entity that made a bona fide offer to purchase the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless these terms and conditions are modified by mutual consent. The owner shall notify in writing those qualified entities of the terms and conditions of the pending offer to purchase, sent by registered or certified mail, return receipt requested. The qualified entity shall have 30 days from the date the notice is mailed to submit a bona fide offer to purchase and that offer shall be accepted by the owner. The owner shall not be required to comply with the

provisions of this subdivision if the person or the entity making the offer during this time period agrees to maintain the development for persons and families of very low, low, and moderate income in accordance with paragraph (2) of subdivision (e). The owner shall notify the department regarding how the buyer is meeting the requirements of paragraph (2) of subdivision (e).

(m) This section shall not apply to any of the following: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure; a transfer by gift, devise, or operation of law; a sale to a person who would be included within the table of descent and distribution if there were to be a death intestate of an owner; or an owner who certifies, under penalty of perjury, the existence of a financial emergency during the period covered by the first right of refusal requiring immediate access to the proceeds of the sale of the development. The certification shall be made pursuant to subdivision (p).

(n) Prior to the close of escrow, an owner selling, leasing, or otherwise disposing of a development to a purchaser who does not qualify under subdivision (e) shall certify under penalty of perjury that the owner has complied with all provisions of this section and Section 65863.10. This certification shall be recorded and shall contain a legal description of the property, shall be indexed to the name of the owner as grantor, and may be relied upon by good faith purchasers and encumbrances for value and without notice of a failure to comply with the provisions of this section.

Any person or entity acting solely in the capacity of an escrow agent for the transfer of real property subject to this section shall not be liable for any failure to comply with this section unless the escrow agent either had actual knowledge of the requirements of this section or acted contrary to written escrow instructions concerning the provisions of this section.

(o) The department shall undertake the following responsibilities and duties:

(1) Maintain a form containing a summary of rights and obligations under this section and make that information available to owners of assisted housing developments as well as to tenant associations, local nonprofit organizations, regional or national nonprofit organizations, public agencies, and other entities with an interest in preserving the state's subsidized housing.

(2) Compile, maintain, and update a list of entities in subdivision (d) that have either contacted the department with an expressed interest in purchasing a development in the subject area or have been identified by the department as potentially having an interest in participating in a right-of-first-refusal program. The department shall publicize the

existence of the list statewide. Upon receipt of a notice of intent under Section 65863.10, the department shall make the list available to the owner proposing the termination or removal of government assistance. If the department does not make the list available at any time, the owner shall only be required to send a written copy of the opportunity to submit an offer to purchase notice to the qualified entities which directly contact the owner and to post a copy of the notice in the common area pursuant to subdivision (g).

(p) (1) The provisions of this section may be enforced either in law or in equity by any qualified entity entitled to exercise the opportunity to purchase and right-of-first-refusal under this section, that has been adversely affected by an owner's failure to comply with this section.

(2) An owner may rely on the statements, claims, or representations of any person or entity that the person or entity is a qualified entity as specified in subdivision (d), unless the owner has actual knowledge that the purchaser is not a qualified entity.

(3) If the person or entity is not an entity as specified in subdivision (d), that fact, in the absence of actual knowledge as described in paragraph (2), shall not give rise to any claim against the owner for a violation of this section.

(q) It is the intent of the Legislature that the provisions of this section are in addition to, but not preemptive of, applicable federal laws governing the sale, or other disposition of a development that would result in either (1) a discontinuance of its use as an assisted housing development or (2) the termination of any low-income use restrictions which apply to the development.

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

CHAPTER 667

An act to amend Sections 50800, 50801, 50801.5, 50802, 50802.5, 50804, 53260, 53265, 53275, 53280, and 53300 of, and to add Sections 50675.12 and 53311 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 50675.12 is added to the Health and Safety Code, to read:

50675.12. (a) The department shall include in the annual report required by Section 50408 information that describes all of the following:

(1) The number of projects assisted through the program.

(2) The types of units assisted through the program.

(3) The location and geographical distribution of the projects and units assisted.

(4) The average cost per project, and cost per unit.

(5) The number of projects and units that have been assisted that serve special needs populations and information related to the types of special needs populations served.

(b) After each Notice of Funding Availability issued for the distribution of funds pursuant to the program, the department shall evaluate the ability of projects that serve families or special needs populations to competitively access the program. Based on its analysis, if the department determines that those projects are not able to apply for or to successfully compete for funding, the department shall make the adjustments it deems appropriate to ensure that these populations are adequately served in subsequent Notices of Funding Availability. These adjustments may include, but are not limited to, making adjustments to threshold requirements, evaluative criteria, or the timing of the issuance of Notices of Funding Availability to ensure that reasonable funding remains available for more complex projects that include the supportive services necessary to serve families and special needs populations.

SEC. 2. Section 50800 of the Health and Safety Code is amended to read:

50800. (a) It is the intent of the Legislature to encourage the provision of shelter, with effective personal rehabilitation and self-sufficiency development services, to homeless persons at as low a cost and as quickly as possible, without compromising the health and safety of shelter occupants. It is also the intent of the Legislature to encourage the move of homeless persons from shelters to a self-supporting environment as soon as possible, to encourage provision of services for as many persons at risk of homelessness as possible, to encourage compatible and effective funding of homeless services, and to encourage coordination among public agencies that fund or provide services to homeless individuals, as well as agencies that discharge people from their institutions, including, but not limited to, child welfare agencies, health care programs, and jails and prisons. Because many communities currently provide shelter and limited services to individuals who are unable or unwilling to comply with traditional housing programs only during cold and wet weather and because year-round shelter will encourage these individuals to accept services and move toward permanent housing, it is also the intent of the

Legislature to increase the availability of year-round shelter to meet the special needs of those individuals, including a Safe Haven that provides supportive housing for seriously mentally ill homeless persons.

(b) There is hereby created the Emergency Housing and Assistance Program.

(c) To the extent possible, the Emergency Housing and Assistance Program shall not conflict with the federal Stewart B. McKinney Homeless Assistance Act, as approved on July 22, 1987, cited as Public Law 100-77, as it is, from time to time, amended, and regulations promulgated thereunder by the United States Department of Housing and Urban Development, or its successor.

SEC. 3. Section 50801 of the Health and Safety Code is amended to read:

50801. As used in this chapter:

(a) ''Department'' means the Department of Housing and Community Development.

(b) ''Designated local board'' means a group, including social service providers and a representative of local government, that has met department requirements for distribution of grants allocated by the department pursuant to this chapter.

(c) ''Director'' means the Director of Housing and Community Development.

(d) ''Eligible organization'' means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing, or both.

(e) ''Emergency shelter'' means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

(f) ''Nonurban county'' means any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E-1, prepared by the Department of Finance, Population Research Unit.

(g) ''Region'' means a county or a consortium of counties voluntarily banding together by action of a designated local board.

(h) ''Safe Haven'' means supportive housing for seriously mentally ill homeless persons, many of whom have cooccurring substance abuse problems, that have been unable or unwilling to participate in high demand housing programs.

(i) ''Transitional housing'' means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving

recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(j) ''Urban county'' means any county that is not a nonurban county.

SEC. 4. Section 50801.5 of the Health and Safety Code is amended to read:

50801.5. (a) The department shall adopt regulations for the administration of the Emergency Housing and Assistance Program. The regulations shall govern the equitable distribution of funds in accordance with the intent and provisions of this chapter, and shall ensure that the program is administered in an effective and efficient manner. The regulations shall provide for reasonable delegation of authority to designated local boards, ensure that local priorities and criteria are reasonably designed to address the needs of homeless people, and ensure that designated local boards meet reasonable standards of inclusiveness, accountability, nondiscrimination, and integrity.

(b) The regulations adopted pursuant to this section shall ensure that emergency shelter and services shall be provided on a first-come, first-served basis for whatever time periods are established by the shelter. No individual or household may be denied shelter or services because of an inability to pay. Nothing in this provision shall be construed to preclude a shelter from accepting payment vouchers provided through any other public or private program so long as no shelter beds are reserved beyond sundown for that purpose. Notwithstanding Section 11135 of the Government Code, nothing in this section shall be construed to preclude a provider of emergency shelter or transitional housing from restricting occupancy on the basis of sex. However, in the case of families, providers of emergency shelter or transitional housing shall provide, to the greatest extent feasible, adequate facilities within their range of services so that all members of a family may be housed together, regardless of age and gender.

SEC. 5. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second

fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 4 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

SEC. 6. Section 50802.5 of the Health and Safety Code is amended to read:

50802.5. (a) The department shall issue a notice or notices of funding availability to potential applicants and designated local boards, as applicable, as soon as possible after funding becomes available for the Emergency Housing and Assistance Program. Each notice of funding availability shall indicate the amounts and types of funds available under this program.

(b) A designated local board, or the department in the absence of a designated local board, shall solicit, receive, and select among applications for grants pursuant to this chapter from eligible organizations through an open, fair, and competitive process. These applications shall be ranked and selected by a designated local board, or by the department in the absence of a designated local board.

(c) Notwithstanding subdivision (b), the department may restrict a designated local board from selecting any application requesting a grant for capital developments if the amount requested by the application exceeds the limits determined by the department, and the department determines that the designated local board is not qualified to evaluate the application. The department shall establish criteria for distinguishing between a designated local board that may be so restricted and a designated local board that would not be so restricted. A designated local board may appeal to the director, or to the director's designee, any decision made by the department pursuant to this subdivision. The department, by June 30, 2001, shall consider increasing the maximum

grant limits to three hundred thousand dollars ($300,000) for operating grants and five hundred thousand dollars ($500,000) for capital grants.

(d) The department, or the designated local board, as applicable, shall not grant more than one million dollars ($1,000,000) to any eligible organization within a region in a funding round even if the eligible organization has filed multiple applications.

(e) The department shall determine requirements of the grant contract and shall contract directly with the grant recipient. The department shall not delegate this function to the designated local boards. Eligible designated local boards may use a percentage of the regional award funds to defray administrative costs. The department shall establish this percentage, which shall not exceed 2 percent.

(f) The designated local board shall regulate the performance of any grant contract within their region, subject to department oversight and requirements established by the department.

(g) The department shall not perform a secondary rating or ranking review on those grant applications that have been solicited, received, and selected by a designated local board according to a local ranking criterion that has been approved by the department.

SEC. 7. Section 50804 of the Health and Safety Code is amended to read:

50804. (a) Each designated local board shall submit to the department for approval, a local emergency shelter strategy for its region, describing the procedures for complying with requirements pursuant to this chapter and the regulations promulgated thereunder. The department shall establish, by regulation, the types of information that each designated local board shall include in the strategy, including, but not limited to, each of the following:

(1) A statement of goals and how goals will be achieved.

(2) A statement of priorities and how the priorities complement the local continuum of care planning process.

(3) A description of the application process and ranking criteria for the Emergency Housing and Assistance Program.

(4) Copies of application forms for the Emergency Housing and Assistance Program that the designated local board will use to evaluate requests for grants.

(5) A statement of how grant recipients shall be encouraged to develop year-round emergency shelters and transitional housing to meet the diverse needs of the homeless populations that include families, youth, and persons with physical and mental disabilities, people who are addicted to alcohol and drugs, people living with HIV/AIDS, veterans, the elderly, and pregnant women. Also, a description of how the local plan serves the needs of individuals and families at risk of homelessness as a result of eviction.

(b) The department shall establish a deadline, by which date the designated local board shall be required to submit a strategy for the department's review.

(c) Upon the department's approval of a strategy, the designated local board shall make the strategy broadly available to shelter and service providers and to other interested persons in its region.

SEC. 8. Section 53260 of the Health and Safety Code is amended to read:

53260. For the purposes of this chapter, the following definitions apply:

(a) ''Council'' means the Supportive Housing Program Council.

(b) ''Lead agency'' means the State Department of Mental Health, which shall be the governmental agency that is primarily responsible for administering this chapter.

(c) ''Supportive housing'' means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize their ability to live and, when possible, to work in the community. This housing may include apartments, single-room occupancy residences, or single-family homes.

(d) ''Target population'' means adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

SEC. 9. Section 53265 of the Health and Safety Code is amended to read:

53265. (a) In order to encourage the integration of housing and services, it is the intent of the Legislature to promote interagency coordination and collaboration among not only local private and public agencies, but also among the state agencies responsible for the provision of housing and support services to very low income Californians.

(b) Therefore, there is hereby established the Supportive Housing Program Council to assist with the implementation of this chapter.

(c) Members of the council shall include all of the following:

(1) The following state officials or their designees.

(A) The Secretary of the Health and Welfare Agency.

(B) The Secretary of the Business, Transportation and Housing Agency.

(C) The Directors of the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the State Department of Health Services, the California Department of Aging, the Department of Housing and Community Development, the State Department of Alcohol and Drug Programs, the California Housing Finance Agency, the Department of Rehabilitation, the California Tax Credit Allocation Committee, and the Department of Employment Development.

(2) Three consumer representatives from the target population, appointed by the Secretary of the Health and Welfare Agency, shall also serve on the council.

(d) The duties of the council shall include all of the following:

(1) Developing, promoting, and implementing policy supporting this chapter.

(2) Assisting the lead agency in reviewing the requests for grant applications, reviewing grant applications submitted to the lead agency, and providing the lead agency with recommendations for awarding grants pursuant to Section 53275.

(3) Reviewing input regarding program policy and direction from individuals and entities with experience with the target population.

(4) Assisting the lead agency to coordinate programs under this chapter with special needs housing programs offered by government or private lenders.

(5) Assisting the lead agency in fulfilling its responsibilities under this chapter.

(6) Providing recommendations to the lead agency regarding this chapter.

(7) At the request of the lead agency, assisting agencies in planning and implementing this chapter including assisting with local technical assistance.

SEC. 10. Section 53275 of the Health and Safety Code is amended to read:

53275. (a) Grants shall be awarded by the lead agency based upon the recommendations of the council and pursuant to this chapter. The lead agency shall issue requests for applications for awarding the grants, which shall specify maximum dollar amounts for which grants may be awarded. The request for applications also shall specify other criteria, as required by this chapter. Applicants may apply for a single supportive housing project, or may submit a single application for several projects.

(b) The lead agency shall award grants as follows:

(1) Grants shall be awarded for up to a three-year period except for grants from funds transferred to, or administered by, the Department of Housing and Community Development, and awarded for housing costs, in which case the grants may be awarded for a period not to exceed 15

years. Each award shall be in an amount not to exceed two million dollars ($2,000,000) for a single project, or three million dollars ($3,000,000) for an application from a single jurisdiction for several projects at the discretion of the lead agency, in consultation with the council. At the discretion of the lead agency, these grants may include up to twenty-five thousand dollars ($25,000) for one-time startup grants which may be used, among other things, for purchasing equipment or furniture, hiring staff, designing a program evaluation, or hiring a consultant.

(2) All grants awarded under this subdivision shall be matched by the grantee with fifty cents ($0.50) for each one dollar ($1) awarded in the first year, one dollar ($1) for each one dollar ($1) awarded in the second year, and one dollar and fifty cents ($1.50) for each one dollar ($1) awarded in the third year and, to the extent that this funding continues, in subsequent years. The match shall be contributed in cash or as services or resources of comparable value. It is the intent of the Legislature that participants seek and utilize private funds, or public funds administered by the federal or local governments for this purpose.

(3) In order to receive a grant under this chapter, an applicant shall demonstrate a need for supportive housing for low-income individuals with special needs and a local commitment to providing funding for the purpose of developing and operating supportive housing.

(c) A local nonprofit agency or local government agency shall be eligible for a grant under this chapter if it demonstrates in its program plan that it:

(1) Meets local priorities for supportive housing as identified in a publicly adopted planning document, such as the Consolidated Plan prepared for the Department of Housing and Urban Development, the Continuum of Care Plan, or a local plan for housing services for the target population.

(2) Provides evidence that affordable housing linked to services appropriate to the target population will be made available.

(3) Has established collaborative agreements with housing and service programs to deliver the necessary services and housing to the target population.

(4) Requests funding supplements and does not supplant existing funding.

SEC. 11. Section 53280 of the Health and Safety Code is amended to read:

53280. The lead agency shall give preference to proposals that do any of the following:

(a) Provide supportive housing to underserved target groups for which few alternative resources are available.

(b) Demonstrate collaborative agreements between entities that fund and provide local public and private housing services.

(c) Demonstrate cost avoidance as compared to other housing and service or institutional options available to the specific target population.

(d) Propose to serve the target population with an average income of not more than 100 percent of the federal poverty guidelines, or higher at the discretion of the council.

(e) Demonstrate the capacity and readiness to begin operation of a supportive housing program within one year of receiving the grant.

(f) Demonstrate linkages to programs established under the Adult and Older Adult Mental Health System of Care Act (Part 3 (commencing with Section 5801) of Division 5 of the Welfare and Institutions Code), or other integrated services projects supported with state or local government funds.

SEC. 12. Section 53300 of the Health and Safety Code is amended to read:

53300. (a) No more than 10 percent of the amount appropriated in a fiscal year for the purposes of this chapter may be used for state administration of this chapter, including evaluation and technical assistance. Technical assistance shall include, but is not limited to, assisting with collaborations, providing information, and convening training workshops. The Legislature shall be notified of the administrative costs of this program pursuant to Section 28 of the Budget Act.

(b) Notwithstanding the allocation of funds in the Budget Act of 2000 for the supportive housing initiative to the local assistance Item 4440-101-0001, up to 10 percent of the funds may be spent for administrative costs, as defined in subdivision (a).

(c) Notwithstanding any other provision of law, the lead agency shall make all grant awards from funds allocated in the Budget Act of 2000 for the supportive housing initiative no later than June 30, 2001, and shall expend the funds allocated for those grants no later than June 30, 2004, except for grants awarded for housing costs, as specified in paragraph (1) of subdivision (b) of Section 53275.

SEC. 13. Section 53311 is added to the Health and Safety Code, to read:

53311. The lead agency shall annually prepare and provide a report to the Legislature no later than July 1 of each year that describes all of the following:

(a) The number of persons housed pursuant to the program.

(b) The extent of housing stability.

(c) The demographic characteristics of those housed pursuant to the program, including veterans, people with mental illness, people with substance abuse histories, single adults, and families with children.

(d) The counties and cities in which the housing is located.

(e) The changes in income levels of those housed.
(f) Improvements in health status, to the extent available.

CHAPTER 668

An act to amend Section 12200 of the Penal Code, relating to firearms.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 12200 of the Penal Code is amended to read:

12200. The term ''machinegun'' as used in this chapter means any weapon which shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States 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 669

An act to amend Sections 646.9 and 646.93 of, and to add Section 646.94 to, the Penal Code, relating to stalking.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 646.9 of the Penal Code is amended to read:

646.9. (a) Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family, is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) (1) Every person who, after having been convicted of a felony under Section 273.5, 273.6, or 422, commits a violation of subdivision (a) shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or five years.

(2) Every person who, after having been convicted of a felony under subdivision (a), commits a violation of this section shall be punished by imprisonment in the state prison for two, three, or five years.

(d) In addition to the penalties provided in this section, the sentencing court may order a person convicted of a felony under this section to register as a sex offender pursuant to subparagraph (E) of paragraph (2) of subdivision (a) of Section 290.

(e) For the purposes of this section, ''harasses'' means a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. This course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.

(f) For purposes of this section, ''course of conduct'' means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of ''course of conduct.''

(g) For the purposes of this section, ''credible threat'' means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct made with the intent to place the

person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family and made with 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 family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section.

(h) For purposes of this section, the term ''electronic communication device'' includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers. ''Electronic communication'' has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

(i) This section shall not apply to conduct that occurs during labor picketing.

(j) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.

(k) The sentencing court also shall consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.

(*l*) For purposes of this section, ''immediate family'' means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(m) The court shall consider whether the defendant would benefit from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

SEC. 2. Section 646.93 of the Penal Code is amended to read:

646.93. (a) (1) In those counties where the arrestee is initially incarcerated in a jail operated by the county sheriff, the sheriff shall designate a telephone number that shall be available to the public to inquire about bail status or to determine if the person arrested has been released and if not yet released, the scheduled release date, if known. This subdivision does not require a county sheriff or jail administrator

to establish a new telephone number but shall require that the information contained on the victim resource card, as defined in Section 264.2, specify the phone number that a victim should call to obtain this information. This subdivision shall not require the county sheriff or municipal police departments to produce new victim resource cards containing a designated phone number for the public to inquire about the bail or custody status of a person who has been arrested until their existing supply of victim resource cards has been exhausted.

(2) In those counties where the arrestee is initially incarcerated in an incarceration facility other than a jail operated by the county sheriff and in those counties that do not operate a Victim Notification (VNE) system, a telephone number shall be available to the public to inquire about bail status or to determine if the person arrested has been released and if not yet released, the scheduled release date, if known. This subdivision does not require a municipal police agency or jail administrator to establish a new telephone number but shall require that the information contained on the victim resource card, as defined in Section 264.2, specify the phone number that a victim should call to obtain this information. This subdivision shall not require the county sheriff or municipal police departments to produce new victim resource cards containing a designated phone number for the public to inquire about the bail or custody status of a person who has been arrested until their existing supply of victim resource cards has been exhausted.

(3) If an arrestee is transferred to another incarceration facility and is no longer in the custody of the initial arresting agency, the transfer date and new incarceration location shall be made available through the telephone number designated by the arresting agency.

(4) The resource car provided to victims pursuant to Section 264.2 shall list the designated telephone numbers to which this section refers.

(b) Any request to lower bail shall be heard in open court in accordance with Section 1270.1. In addition, the prosecutor shall make all reasonable efforts to notify the victim or victims of the bail hearing. The victims may be present at the hearing and shall be permitted to address the court on the issue of bail.

(c) Unless good cause is shown not to impose the following conditions, the judge shall impose as additional conditions of release on bail that:

(1) The defendant shall not initiate contact in person, by telephone, or any other means with the alleged victims.

(2) The defendant shall not knowingly go within 100 yards of the alleged victims, their residence, or place of employment.

(3) The defendant shall not possess any firearms or other deadly or dangerous weapons.

(4) The defendant shall obey all laws.

(5) The defendant, upon request at the time of his or her appearance in court, shall provide the court with an address where he or she is residing or will reside, a business address and telephone number if employed, and a residence telephone number if the defendant's residence has a telephone.

A showing by declaration that any of these conditions are violated shall, unless good cause is shown, result in the issuance of a no-bail warrant.

SEC. 3. Section 646.94 is added to the Penal Code, to read:

646.94. (a) Contingent upon a Budget Act appropriation, the Department of Corrections shall ensure that any parolee convicted of violating Section 646.9 on or after January 1, 2002, who is deemed to pose a high risk of committing a repeat stalking offense be placed on an intensive and specialized parole supervision program for a period not to exceed the period of parole.

(b) (1) The program shall include referral to specialized services, for example substance abuse treatment, for offenders needing those specialized services.

(2) Parolees participating in this program shall be required to participate in relapse prevention classes as a condition of parole.

(3) Parole agents may conduct group counseling sessions as part of the program.

(4) The department may include other appropriate offenders in the treatment program if doing so facilitates the effectiveness of the treatment program.

(c) The program shall be established with the assistance and supervision of the staff of the department primarily by obtaining the services of mental health providers specializing in the treatment of stalking patients. Each parolee placed into this program shall be required to participate in clinical counseling programs aimed at reducing the likelihood that the parolee will commit or attempt to commit acts of violence or stalk their victim.

(d) The department may require persons subject to this section to pay some or all of the costs associated with this treatment, subject to the person's ability to pay. ''Ability to pay'' means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing mental health 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 that may bear upon the person's financial capability to reimburse the department for the costs.

(e) For purposes of this section, a mental health provider specializing in the treatment of stalking patients shall meet all of the following requirements:

(1) Be a licensed clinical social worker, as defined in Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code, a clinical psychologist, as defined in Section 1316.5 of the Health and Safety Code, or a physician and surgeon engaged in the practice of psychiatry.

(2) Have clinical experience in the area of assessment and treatment of stalking patients.

(3) Have two letters of reference from professionals who can attest to the applicant's experience in counseling stalking patients.

(f) The program shall target parolees convicted of violating Section 646.9 who meet the following conditions:

(A) The offender has been subject to a clinical assessment.

(B) A review of the offender's criminal history indicates that the offender poses a high risk of committing further acts of stalking or acts of violence against his or her victim or other persons upon his or her release on parole.

(C) The parolee, based on his or her clinical assessment, may be amenable to treatment.

(g) On or before January 1, 2006, the Department of Corrections shall evaluate the intensive and specialized parole supervision program and make a report to the Legislature regarding the results of the program, including, but not limited to, the recidivism rate for repeat stalking related offenses committed by persons placed into the program and a cost-benefit analysis of the program.

(h) This section shall become operative upon the appropriation of sufficient funds in the Budget Act to implement this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement

does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 670

An act to amend Section 821 of, and to add Article 5 (commencing with Section 500) to Chapter 3 of Part 1 of Division 1 of, the Food and Agricultural Code, relating to sustainable agriculture.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. The Legislature finds and declares the following:

(a) A growing number of California farmers and ranchers have adopted, or are seeking to adopt, sustainable farming practices that enable them to reduce pesticide use, manage pesticide and water use cost effectively, increase soil fertility, and reduce off-farm environmental impacts. California is also home to the nation's largest number of organic farmers and ranchers, who produce agricultural products in compliance with the California Organic Foods Act, and acreage dedicated to certified organic production is growing rapidly in California. Additionally, many growers and commodity groups are seeking ways to market their products based on consumer recognition of their stewardship activities.

(b) The State of California and the University of California have created a number of programs designed to promote research on, and facilitate adoption of, sustainable agricultural practices. These programs take a systems approach to agricultural research management, emphasizing on-farm work with farmers, including small-scale, immigrant, and minority farmers, who voluntarily seek to make a transition to more sustainable agricultural practices. The programs recognize that farmers are implementing successful innovative farming practices, and they support that innovation by applying scientific analysis to the practices and encouraging their broader dissemination to other farmers. The programs emphasize collaborative research and mutual learning among farmers, pest control advisors, extension advisers, commodity groups, and affiliated agricultural organizations to maximize adoption of sustainable agricultural practices by farmers and others in the agriculture industry. Sustainable agricultural programs at the university include research, teaching, and outreach in the areas of sustainable farming systems, biologically integrated farming systems,

organic agriculture, small farms, agroecology systems, biointensive integrated pest management, and biological pest control, and include, but are not limited to, the Sustainable Agriculture Research and Education Program, the Center for Agroecology and Sustainable Farming Systems, the Centers for Biological Control, and the Small Farm Center.

(c) California farmers and ranchers are demonstrating a growing desire to obtain the information on sustainable agricultural practices and marketing strategies that these university programs are designed to provide. They are looking to the university to incorporate the programs and the information and practices developed by these programs into the University of California Cooperative Extension and other state and university programs designed to assist California agriculture, so that the technical information and support to adopt these practices are readily available to California farmers and ranchers.

SEC. 2. Article 5 (commencing with Section 500) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

Article 5. Sustainable Agriculture

500. Pursuant to subdivision (d) of Section 821, it is the intent of the Legislature that programs at the University of California designed to promote research on, and facilitate adoption of, sustainable agricultural practices, including, but not limited to, research, teaching, and outreach in the areas of sustainable farming systems, biologically integrated farming systems, organic agriculture, small farms, agroecology systems, biointensive integrated pest management, and biological pest control shall be adequately funded through the annual budget process to ensure the programs' ongoing ability to respond to the needs of all sectors of California's agricultural industry. It is the further intent of the Legislature that the sustainable agricultural practices, methods, and materials identified and developed by these programs be incorporated into appropriate programs of the state and the university to maximize the access of California farmers and ranchers to the information needed to adopt and implement these measures.

501. Pursuant to Section 500 and subdivision (d) of Section 821, the Legislature requests that the Regents of the University of California do both of the following:

(a) Provide adequate and ongoing funding to programs at the University of California designed to promote research on, and facilitate adoption of, sustainable agricultural practices, including, but not limited to, research, teaching, and outreach in the areas of sustainable farming systems, biologically integrated farming systems, organic agriculture,

small farms, agroecology systems, biointensive integrated pest management, and biological pest control to ensure the programs' ongoing ability to respond to the needs of all sectors of California's agricultural industry.

(b) Fully incorporate the sustainable agricultural practices, methods, and materials identified and developed by the programs enumerated in this article into all appropriate programs of the university to ensure that California farmers and ranchers have maximum access to the information needed to adopt and implement these measures.

SEC. 3. Section 821 of the Food and Agricultural Code is amended to read:

821. As part of promoting and protecting the agricultural industry of the state and for the protection of public health, safety, and welfare, the Legislature shall provide for a continuing sound and healthy agriculture in California and shall encourage a productive and profitable agriculture. Major principles of the state's agricultural policy shall be all of the following:

(a) To increase the sale of crops and livestock products produced by farmers, ranchers, and processors of food and fiber in this state.

(b) To enhance the potential for domestic and international marketing of California agricultural products through fostering the creation of value additions to commodities and the development of new consumer products.

(c) To sustain the long-term productivity of the state's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources.

(d) To maximize the ability of farmers, ranchers, and processors to learn about and adopt practices that will best enable them to achieve the policies stated in this section.

CHAPTER 671

An act to amend Sections 77201 and 77201.1 of the Government Code, and to amend Section 1 of Chapter 1045 of the Statutes of 1998, relating to state and local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 77201 of the Government Code is amended to read:

77201. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) In the 1997–98 fiscal year, each county shall remit to the state in installments due on January 1, April 1, and June 30, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 42,045,093
Alpine	46,044
Amador	900,196
Butte	2,604,611
Calaveras	420,893
Colusa	309,009
Contra Costa	21,634,450
Del Norte	780,786
El Dorado	3,888,927
Fresno	13,355,025
Glenn	371,607
Humboldt	2,437,196
Imperial	2,055,173
Inyo	546,508
Kern	16,669,917
Kings	2,594,901
Lake	975,311
Lassen	517,921
Los Angeles	291,872,379
Madera	1,242,968
Marin	6,837,518
Mariposa	177,880
Mendocino	1,739,605
Merced	1,363,409
Modoc	114,249
Mono	271,021

Monterey	5,739,655
Napa	2,866,986
Nevada	815,130
Orange	76,567,372
Placer	6,450,175
Plumas	413,368
Riverside	32,524,412
Sacramento	40,692,954
San Benito	460,552
San Bernardino	31,516,134
San Diego	77,637,904
San Francisco	31,142,353
San Joaquin	9,102,834
San Luis Obispo	6,840,067
San Mateo	20,383,643
Santa Barbara	10,604,431
Santa Clara	49,876,177
Santa Cruz	6,449,104
Shasta	3,369,017
Sierra	40,477
Siskiyou	478,144
Solano	10,780,179
Sonoma	9,273,174
Stanislaus	8,320,727
Sutter	1,718,287
Tehama	1,352,370
Trinity	620,990
Tulare	6,981,681
Tuolumne	1,080,723
Ventura	16,721,157
Yolo	2,564,985
Yuba	842,240

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001 and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$12,769,882
Alpine	58,757
Amador	377,005
Butte	1,437,671
Calaveras	418,558
Colusa	485,040
Contra Costa	6,138,742
Del Norte	235,438
El Dorado	1,217,093
Fresno	4,505,786
Glenn	455,389
Humboldt	1,161,745
Imperial	1,350,760
Inyo	878,321
Kern	6,688,247
Kings	1,115,601
Lake	424,070
Lassen	513,445
Los Angeles	89,771,310
Madera	1,207,998
Marin	2,700,045
Mariposa	135,457
Mendocino	948,837
Merced	2,093,355
Modoc	122,156
Mono	415,136
Monterey	3,855,457
Napa	874,219
Nevada	1,378,796
Orange	24,830,542
Placer	2,182,230
Plumas	225,080
Riverside	13,328,445
Sacramento	7,548,829
San Benito	346,451
San Bernardino	11,694,120
San Diego	21,410,586
San Francisco	5,925,950
San Joaquin	4,753,688

San Luis Obispo	2,573,968
San Mateo	7,124,638
Santa Barbara	4,094,288
Santa Clara	15,561,983
Santa Cruz	2,267,327
Shasta	1,198,773
Sierra	46,778
Siskiyou	801,329
Solano	3,757,059
Sonoma	2,851,883
Stanislaus	2,669,045
Sutter	802,574
Tehama	761,188
Trinity	137,087
Tulare	2,299,167
Tuolumne	440,496
Ventura	6,129,411
Yolo	1,516,065
Yuba	402,077

(3) The installment due on January 1 shall be for 25 percent of the amounts specified in paragraphs (1) and (2). The installments due on April 1 and June 30 shall be prorated uniformly to reflect any adjustments made by the Department of Finance, as provided in this section. If no adjustment is made by April 1, 1998, the April 1, 1998, installment shall be for 15 percent of the amounts specified in paragraphs (1) and (2). If no adjustment is made by June 30, 1998, the June 30, 1998, installment shall be for the balance of the amounts specified in paragraphs (1) and (2).

(4) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) that a county is required to submit to the state, pursuant to the following:

(1) A county shall submit a declaration to the Department of Finance, no later than February 15, 1998, that the amount it is required to submit to the state pursuant to paragraph (1) of subdivision (b) either includes or does not include the costs for local judicial benefits which are court operation costs as defined in Section 77003 and Rule 810 of the California Rules of Court. The trial courts in a county that submits such a declaration shall be given a copy of the declaration and the opportunity to comment on the validity of the statements in the declaration. The Department of Finance shall verify the facts in the county's declaration and comments, if any. Upon verification that the amount the county is required to submit to the state includes the costs of local judicial benefits, the department shall reduce on or before June 30, 1998, the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the cost of those judicial benefits, in which case the county shall continue to be responsible for the cost of those benefits. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b), the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit.

(d) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) of Section 77201.1 that a county is required to submit to the state, pursuant to the following procedures:

(1) A county may submit a declaration to the Department of Finance, no later than February 15, 1998, that declares that (A) the county incorrectly reported county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that incorrect report resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too high, (B) the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) includes amounts that were specifically appropriated, funded, and expended by a county or city and county during the 1994–95 fiscal year to fund extraordinary one-time expenditures for court operation costs, or (C) the amount the county is

required to submit to the state pursuant to paragraph (1) of subdivision (b) includes expenses that were funded from grants or subventions from any source, for court operation costs that could not have been funded without those grants or subventions being available. A county submitting that declaration shall concurrently transmit a copy of the declaration to the trial courts of that county. The trial courts in a county that submits that declaration shall have the opportunity to comment to the Department of Finance on the validity of the statements in the declaration. Upon receipt of the declaration and comments, if any, the Department of Finance shall determine and certify which costs identified in the county's declaration were incorrectly reported as court operation costs or were expended for extraordinary one-time expenditures or funded from grants or subventions in the 1994–95 fiscal year. The Department of Finance shall reduce the amount a county must submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount the department certifies was incorrectly reported as court operations costs or were expended for extraordinary one-time expense or funded from grants or subventions in the 1994–95 fiscal year. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1, the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit, which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit. A county shall provide, at no charge to the court, any service for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 was adjusted downward, if the county is required to provide that service at no cost to the court by any other provision of law.

(2) A court may submit a declaration to the Department of Finance, no later than February 15, 1998, that the county failed to report county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. A court submitting that declaration shall concurrently transmit a copy of the declaration to the county. A county shall have the opportunity to comment to the Department of Finance on the validity of statements in the declaration and comments, if any. Upon receipt of the declaration, the Department of Finance shall determine and

certify which costs identified in the court's declaration should have been reported by the county as court operation costs in the 1994–95 fiscal year and whether this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. The Department of Finance shall notify the county, the trial courts in the county, and the Judicial Council of its certification and decision. Within 30 days, the county shall either notify the Department of Finance, trial courts in the county, and the Judicial Council that the county shall assume responsibility for the costs the county has failed to report, or that the department shall increase the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) of Section 77201.1 by an amount equal to the amount certified by the department. A county shall not be required to continue to provide services for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 was adjusted upward.

(e) The Legislature hereby finds and declares that to ensure an orderly transition to state trial court funding, it is necessary to delay the adjustments to county obligation payments provided for by Article 3 (commencing with Section 77200) of Chapter 13 of Title 8, as added by Chapter 850 of the Statutes of 1997, until the 1998–99 fiscal year. The Legislature also finds and declares that since increase adjustments to the county obligation amounts will not take effect in the 1997–98 fiscal year, county charges for those services related to the increase adjustments shall not occur in the 1997–98 fiscal year. It is recognized that the counties have an obligation to provide, and the trial courts have an obligation to pay, for services provided by the county pursuant to Section 77212. In the 1997–98 fiscal year, the counties shall charge for, and the courts shall pay, these obligations consistent with paragraphs (1) and (2) of this subdivision.

(1) For the 1997–98 fiscal year, a county shall reduce the charges to a court for those services for which the amount in paragraph (1) of subdivision (b) of Section 77201.1 is adjusted upward, by an amount equal to the lesser of the following:

(A) The amount of the increase adjustment certified by the department pursuant to paragraph (2) of subdivision (d).

(B) The difference between the actual amount charged and paid for from the trial court operations fund, and the amount charged in the 1994–95 fiscal year.

(2) For the 1997–98 fiscal year, any funds paid out of the trial court operations fund established pursuant to Section 77009 during the 1997–98 fiscal year to pay for those services for which there was an upward adjustment, shall be returned to the trial court operations fund in the amount equal to the lesser of the following:

(A) The amount of the increase adjustment certified by the department pursuant to paragraph (2) of subdivision (d).

(B) The difference between the actual amount charged and paid for from the trial court operations fund, and the amount charged in the 1994–95 fiscal year.

(3) The Judicial Council shall reduce the allocation to the courts by an amount equal to the amount of any increase adjustment certified by the Department of Finance, if the cost of those services was used in determining the Judicial Council's allocation of funding for the 1997–98 fiscal year.

(4) In the event the charges are not reduced as provided in paragraph (1) or the funds are not returned to the trial court operations fund as provided in paragraph (2), the trial court operations fund shall be refunded for the 1998–99 fiscal year. Funds provided to the trial court operations fund pursuant to this paragraph shall be available to the trial courts to meet financial obligations incurred during the 1997–98 fiscal year. To the extent that a trial court receives total resources for trial court funding from the county and the state for the 1997–98 fiscal year that exceeded the amount of the allocation approved by the Judicial Council by November 30, 1997, these amounts shall be available for expenditure in the 1998–99 fiscal year and the Judicial Council shall reduce the 1998–99 fiscal year allocation of the court by an equal amount.

(f) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(g) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(h) The Department of Finance shall notify the county, trial courts in the county, and Judicial Council of the final decision and resulting adjustment.

(i) On or before February 15, 1998, each county shall submit to the Department of Finance a report of the amount it expended for trial court operations as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996, between the start of the 1997–98 fiscal year and the effective date of this section. The department shall reduce the amount a county is required to remit to the state pursuant to paragraph (1) of subdivision (b) in the 1997–98 fiscal year by an amount equal to the amount a county expended for court operation costs between the start of the 1997–98 fiscal year and the effective date of this section. The department shall also reduce the amount a county is required to remit to the state pursuant to paragraph (2) of subdivision (b)

in the 1997–98 fiscal year by an amount equal to the amount of fine and forfeiture revenue that a county remitted to the state between the start of the 1997–98 fiscal year and the effective date of this section. The department shall notify the county, the trial courts of the county, and the Judicial Council of the amount it has reduced a county's obligation to remit to the state pursuant to this subdivision.

SEC. 2. Section 77201.1 of the Government Code is amended to read:

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1999–2000 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and May 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 22,509,905
Alpine	–
Amador	–
Butte	–
Calaveras	–
Colusa	–
Contra Costa	11,974,535
Del Norte	–
El Dorado	–
Fresno	11,222,780
Glenn	–
Humboldt	–
Imperial	–
Inyo	–
Kern	9,234,511
Kings	–
Lake	–
Lassen	–
Los Angeles	175,330,647
Madera	–
Marin	–

Mariposa	–
Mendocino	–
Merced	–
Modoc	–
Mono	–
Monterey	4,520,911
Napa	–
Nevada	–
Orange	38,846,003
Placer	–
Plumas	–
Riverside	17,857,241
Sacramento	20,733,264
San Benito	–
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	–
San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	–
Shasta	–
Sierra	–
Siskiyou	–
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	–
Tehama	–
Trinity	–
Tulare	–
Tuolumne	–
Ventura	9,734,190
Yolo	–
Yuba	–

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state

pursuant to Sections 27361 and 76000 of this code, Sections 1463.001, 1463.07, and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

Jurisdiction	Amount
Alameda	$ 9,912,156
Alpine	58,757
Amador	265,707
Butte	1,217,052
Calaveras	310,331
Colusa	397,468
Contra Costa	4,486,486
Del Norte	124,085
El Dorado	1,028,349
Fresno	3,695,633
Glenn	360,974
Humboldt	1,025,583
Imperial	1,144,661
Inyo	614,920
Kern	5,530,972
Kings	982,208
Lake	375,570
Lassen	430,163
Los Angeles	71,002,129
Madera	1,042,797
Marin	2,111,712
Mariposa	135,457
Mendocino	717,075
Merced	1,733,156
Modoc	104,729
Mono	415,136
Monterey	3,330,125
Napa	719,168
Nevada	1,220,686
Orange	19,572,810
Placer	1,243,754
Plumas	193,772
Riverside	7,681,744
Sacramento	5,937,204
San Benito	302,324
San Bernardino	8,163,193

San Diego	16,166,735
San Francisco	4,046,107
San Joaquin	3,562,835
San Luis Obispo	2,036,515
San Mateo	4,831,497
Santa Barbara	3,277,610
Santa Clara	11,597,583
Santa Cruz	1,902,096
Shasta	1,044,700
Sierra	42,533
Siskiyou	615,581
Solano	2,708,758
Sonoma	2,316,999
Stanislaus	1,855,169
Sutter	678,681
Tehama	640,303
Trinity	137,087
Tulare	1,840,422
Tuolumne	361,665
Ventura	4,575,349
Yolo	880,798
Yuba	289,325

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This paragraph shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county, and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this

subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the General Fund support for the trial courts.

(g) In any fiscal year in which a county of the first class pays the employer-paid retirement contribution for court employees, or any other employees of the county who provide a service to the court, and the amounts of those payments are charged to the budget of the courts, the sum the county is required to pay to the state pursuant to paragraph (1) of subdivision (b) shall be increased by the actual amount charged to the trial court up to twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars ($23,527,949) in that fiscal year. The county and the trial court shall report to the Controller and the Department of Finance the actual amount charged in that fiscal year.

(h) This section shall become operative on July 1, 1999.

SEC. 3. Section 1 of Chapter 1045 of the Statutes of 1998 is amended to read:

Section 1. (a) For a county that received a loan pursuant to Article 1.5 (commencing with Section 55620) of Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code, the amount of the local match required and those other funds necessary to complete the project as described in the grant award made pursuant to subdivision (b) of Section 4 of Chapter 339 of the Statutes of 1998 that is paid by the county during its participation in the program specified in that subdivision in the 1999–2000, 2000–2001, 2001–2002, and 2002–2003 fiscal years, shall be deemed a payment on the loan provided pursuant to that article.

(b) The principal balance of the loan made pursuant to that Article 1.5, following the application of any payments made by a county and the application of the payment deemed to have been made pursuant to subdivision (a), shall be paid by a county in annual installments of no less than 10 percent of the principal balance of the loan. These payments shall be made by December 31 of each year commencing in the fiscal year following the initial participation in the program authorized by Section 4 of Chapter 339 of the Statutes of 1998. No further interest shall accrue on the loan after the operative date of this act and any interest accrued to date is hereby waived.

(c) This act shall become operative only if the county participates during the 1998–99 fiscal year or the 1999–2000 fiscal year in the program or programs implemented pursuant to Sections 2 to 4, inclusive, of Chapter 339 of the Statutes of 1998.

SEC. 4. Section 2 of this bill shall not become operative if Assembly Bill 2402 is enacted and becomes operative before this bill and amends Section 77201.1 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct the statutory amounts that Contra Costa, Del Norte, and San Bernardino Counties shall be required to remit to the state for purposes of trial court funding, and in order that Merced County may proceed with the construction of a new juvenile hall as contemplated in Chapter 1045 of the Statutes of 1998 it is necessary that this act take effect immediately.

CHAPTER 672

An act to amend Items 3790-101-0001, 3790-102-0005, 3940-101-0418, 3940-101-0419, 3940-101-0744, 3940-101-6013, 3940-101-6016, 3940-101-6017, 3940-101-6019, 3940-101-6020, 3940-101-6021, 3940-101-6022, and 8260-103-0001 of, and Provisions (10)(a)(4) and (10)(f) of Item 6440-001-0001 of, and to add Item 0540-491 to, and to add Provision 6 to Item 4200-101-0001 of, Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000), and to otherwise amend and supplement the Budget Act of 2000, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

Senate Bill 1681 makes various changes to the Budget Act.

I am signing Senate Bill 1681. However, I am deleting Section 24.5, which adds Provision 6 to Item 4200-101-0001. The Budget Act of 2000 includes an appropriation of $250,000 for People in Progress, Inc. Current statute requires counties of more than 100,000 population to provide 10 percent county matching funds for State-funded alcohol and drug programs and services. This provision would allow Los Angeles County to forgo the 10 percent county match related to the appropriation for the People in Progress, Inc. and require the State to pay the match. The section would treat Los Angeles differently from the other counties that must continue to provide the required match and could establish an unfavorable precedent and demands from other counties for similar treatment. Such demands could create potentially significant General Fund costs in the future. I, therefore, believe this section is inappropriate, potentially costly, and contrary to long-standing public policy.

GRAY DAVIS, Governor

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

SECTION 1. The appropriations made by this act are in augmentation of the appropriations made in Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000) and are subject to the provisions of that act, as appropriate, including, as applicable, the provisions of that act that apply to the items of appropriation that are augmented by this act. Unless otherwise specified, the references in this act to item numbers refer to items of appropriation in Section 2.00 of the Budget Act of 2000.

SEC. 2. Item 0540-491 is added to Section 2.00 of the Budget Act of 2000, to read:

0540-491—Reappropriation, Secretary for Resources. Notwithstanding any other provision of law, as of June 30, 2000, the balances of the funds appropriated in Item 0540–103–0001 of the Budget Act of 1999 (Ch. 50, Stats. 1999) is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in that appropriation.

SEC. 3. The sum appropriated in Provisions (1)(e) of Item 0690-103-0001 to the Office of Emergency Services is hereby reappropriated to the County of San Mateo for a South San Francisco emergency shelter facility.

SEC. 4. The balance of the sum appropriated to the State Coastal Conservancy in Item 3760-302-0001 of the Budget Act of 1999 (Ch. 50, Stats. 1999) and available pursuant to Provision 3 of that item for Palo Corona Ranch is hereby reappropriated to the conservancy for the acquisition of properties to protect the Big Sur region and the Monterey Bay seashore, subject to the other applicable provisions of Item 3760-302-0001 of the Budget Act of 1999.

SEC. 5. Notwithstanding the sum appropriated in Schedule (1) of Item 3760-301-001 to the State Coastal Conservancy for public access, of the funds appropriated in that item an amount of three million one hundred seventy-five thousand dollars ($3,175,000) is hereby appropriated for public access.

SEC. 5.5. Notwithstanding the sum appropriated in Schedule (2) of Item 3760-301-0001 to the State Coastal Conservancy for the Southern California Wetlands Recovery Program, of the funds appropriated in that item the sum of three million dollars ($3,000,000) is hereby appropriated and shall be expended for the Southern California Wetlands Recovery Program.

SEC. 6. The sum appropriated to the State Coastal Conservancy in Item 3760-302-0001 is hereby reduced by five hundred thousand dollars ($500,000) to three million five hundred fifty thousand dollars ($3,550,000) and the sum appropriated by Schedule (a)(2) of that item to the State Coastal Conservancy for the Watts/Willowbrook Boys and Girls Club to complete construction of a club is hereby reduced by five hundred thousand dollars ($500,000) to zero dollars.

SEC. 7. The sum appropriated to the State Coastal Conservancy in Schedule 2(I) of Item 3760-302-0005 for the Bay Area Ridge Trail for the Bay Area Ridge Trail Council for 14 trail-related projects in seven bay area counties is hereby reappropriated to the State Coastal Conservancy for the Bay Area Ridge Trail for the Bay Area Ridge Trail Council for trail-related projects.

SEC. 8. The sum appropriated in Schedule (2)(RX) of Item 3760-302-0005 to the State Coastal Conservancy for Cachuma RCD and Santa Ynes RCD and SB County Water Agency for salmonid habitat improvement is hereby reappropriated to the State Coastal Conservancy for the Cachuma Conservation Release Board, Santa Ynez River Conservation District-Improvement District No. 1, and Santa Barbara County Water Agency for salmonid habitat improvement.

SEC. 9. Item 3790-101-0001 of Section 2.00 of the Budget Act of 2000 is amended to read:

3790–101–0001—For local assistance, Department of Parks and Recreation, to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years . .		75,790,000
Schedule:		
(a) Grants	75,790,000	
(1) City of Whittier: The Green– way Trail	(500,000)	
(2) City of Poway: Parking Improvements for access to Blue Sky Ecological Preserve . . .	(27,000)	
(5) City of Atascadero: Youth Center	(500,000)	
(6) City of Mountain View: Stevens Creek Trail .	(550,000)	
(7) City of Albany: East Bay Shoreline project: acquisition funds	(637,000)	

(8) East Bay Regional Park District: East Bay Shoreline project: Park planning	(200,000)
(11) City of Whittier: Parnell Park restoration	(150,000)
(12) City of Whittier: Friends Park wading pool	(30,000)
(13) City of Los Angeles: David Gonzales Park and Recreation Center	(40,000)
(14) Turlock Community Auditorium, Inc.: Turlock Auditorium .	(250,000)
(15) City of Los Banos: Los Banos (PAL) Youth Center	(250,000)
(16) City of Modesto: Virginia Corridor Project..	(186,000)
(17) Bob Anderson Field of Dreams: Complete construction of football field and associated structures . .	(110,000)
(18) Anaheim YMCA: After school programs . .	(200,000)

(19) "Taller San Jose" non-profit: At–risk youth program . . .	(100,000)
(20) City of Garden Grove: Boys and Girls Club — Playground equipment .	(100,000)
(21) City of Santa Ana: Batting cage at Madison Park . . .	(50,000)
(22) City of Anaheim: Batting cage at Boysen Park . . .	(50,000)
(23) City of Anaheim: Playground equipment replacement at Pearson Park	(125,000)
(24) T.H.I.N.K. Together: After school learning center for at-risk youths	(100,000)
(25) Garden Grove: Renovation and ADA compliance at West Haven, Woodbury, and Pioneer parks	(90,000)

(26) City of Santa Ana: Citizens in Action Community Technology Center–1st phase	(50,000)
(27) City of Lemoore: Construct outdoor public skate park	(40,000)
(28) Wasco Recreation and Parks District: Playground renovation for three parks .	(40,000)
(29) Kings Rehabilitation Center: Soccer sports complex . . .	(40,000)
(30) City of Avenal: Sports complex lighting	(50,000)
(31) Bakersfield PAL: Construct multiuse playing field	(50,000)
(32) City of Arvin: Develop soccer field–Smothermon Park	(50,000)
(33) West side parks and recreation: Renovate skate escape and fitness center	(80,000)

(34) Kettleman City Foundation: Kettleman City Community Center	(85,000)
(35) Coalinga–Huron Parks and Recreation District: Joint use sports complex	(250,000)
(36) Kings County Sheriffs: Van for Avenal Boxing Club ...	(12,000)
(37) City of Avenal: Bathrooms/pavilion for Avenal Museum ...	(25,000)
(38) City of Downey: Equipment for Downey Pool	(25,000)
(39) Los Angeles County: Tujunga urban river restoration	(5,000,000)
(40) City of Santa Paula: Harding Park–lighting and bleachers ..	(100,000)
(41) City of Carpinteria: Build ballfields	(250,000)
(42) City of Ventura: East Ventura Park	(250,000)

(43) Boys and Girls Club of Ventura: Sports equipment, band instruments .	(20,000)
(44) City of West Hollywood: Veterans' Park	(200,000)
(45) Tarzana Community Center Foundation: Tarzana Community Cen–ter	(250,000)
(46) City of Long Beach: Rancho Los Alamitos Historical Park . . .	(150,000)
(47) City of Hermosa Beach: Renovate community center	(250,000)
(49) Marjaree Mason Center: General repairs and maintenance	(150,000)
(50) City of Fresno: Holmes Park playground improvements	(93,000)

(51) Rotary Playland Storyland: Rotary Playland at Roeding Park in Fresno—Repair and construct new rides for the park	(150,000)
(52) Fresno Metropolitan Flood Control District: Construction costs for a park located in Kings Canyon and Huntington Avenue areas . .	(250,000)
(53) City of Reedley: Second phase of the Reedley Rail Trail Parkway	(200,000)
(54) City of Alhambra: American Legion #139: Replace the roof, A/C system, and flooring . . .	(60,000)
(55) City of San Gabriel: Expand Asian Youth Center with the addition of a second floor .	(400,000)

(56) City of Monterey Park: New roof for the Boys and Girls Club in the City of Monterey . .	(50,000)
(57) Barrio Action Youth and Family Center: Refurbishment of the roof over the study hall and counseling center . .	(250,000)
(58) East Los Angeles Community Facility (City Terrace Neighborhood): Build a community facility in the City Terrace neighborhood of East Los Angeles for senior citizens, Creative Thinking Program and facility for community meetings and other events	(200,000)

(59) El Sereno Youth Center in East LA: Purchase van to transport children to and from the youth center for after school programs . .	(25,000)
(60) MERCI Inc.: Replacement of kitchen and restroom sinks to meet ADA requirements	(5,000)
(61) City of San Gabriel: La Casa de San Gabriel–Purchase new books and library materials	(5,000)
(62) City of Alhambra: Girl Scouts of America–Purchase equipment and uniforms for economically disadvantaged girls	(5,000)

(63) City of Rosemead: The Boys and Girls Club–Upgrade facilities which include new PCs, refurbishing extra curricular room and replacement of athletic equipment .	(5,000)
(64) Sacramento Boys and Girls Club	(350,000)
(65) County of Sacramento: Construction of the Sacramento Youth Sports Complex	(500,000)
(66) City of Sacramento: Bill Bean Jr. Memorial Park	(500,000)
(67) Del Norte County Historical Society: Battery Point Lighthouse Preservation Project	(25,000)
(68) Pittsburg Historical Society: Restoration of Old Post Dispatch Building . . .	(250,000)

(69) City of Los Angeles: Chinatown Service Center	(100,000)
(70) City of Los Angeles: Vista del Mar . .	(200,000)
(71) City of Gardena: First through Sixth Grade After School Program	(150,000)
(72) City of Los Angeles: New gym floor at Vineyard Park . .	(100,000)
(73) Los Angeles County: Parking lot lighting and exercise par course repairs at Cheviott Hills Recreation Center	(150,000)
(74) City of Patterson: Patterson Aquatic Facility . .	(300,000)
(75) City of Los Angeles: Skateboard Park–Hanson Dam	(100,000)
(76) City of San Fernando: Expansion of Las Palmas Park Multi–purpose Center	(1,000,000)

(77) City of Los Angeles: Blythe Street Park Expansion	(1,000,000)
(80) Mission Trails Regional Park Foundation: Mission Trails Regional Park–Equestrian and ranger station	(1,000,000)
(81) City of San Diego: East Clairemont Community Park–Design and construction of a new irrigation system, turf, and security lights	(250,000)
(82) City of San Diego: San Carlos Community/ Pershing Middle School Joint Turfing Project	(350,000)
(84) City of San Diego: Presdio Park restroom/picnic area	(425,000)
(85) City of San Diego: San Diego Maritime Museum	(450,000)

(86) City of San Diego: Serra Mesa Community Park Game Room Renovation	(100,000)
(87) County of Los Angeles: Del Amo Neighborhood Park . .	(900,000)
(88) San Francisco Architectural Heritage: Renovation and repairs at Mission Dolores Basilica	(150,000)
(89) Greater Vallego Recreation District: River Park master plan .	(150,000)
(90) City of Santa Rosa: "A Place to play"	(500,000)
(92) Greater Vallejo Recreation District: Children's Wonderland	(300,000)
(93) City of Santa Rosa: Construction of 25,000-square-foot youth center in Southwest Community Park	(400,000)

(94) Mendocino Coast Recreation and Park District: Construction of Phase I of the Ft. Bragg Aquatic Center	(300,000)
(95) Napa County: Napa Boys and Girls Club . .	(250,000)
(96) Greater Vallejo Recreation District: North Vallejo Community Center expansion	(300,000)
(97) Del Norte County: Youth Community Center and Skateboard Park	(100,000)
(98) City of Bakersfield: Construction of the Greenfield Multipurpose public use facility	(1,000,000)
(99) City of Fresno: Acquisition of land for the Bullard Bambino Baseball Facility	(1,000,000)
(100) City of Garden Grove: Chapman Sports Complex	(600,000)

(101) City of Garden Grove: Edgar Park renovation .	(95,000)
(102) City of Santa Ana: Jerome Park and Community Center	(500,000)
(104) City of Stanton: Reconstruct and upgrade park and improve park equipment	(250,000)
(105) Santa Ana Recreation Department: Vans to transport underprivileged children . . .	(60,000)
(106) City of Buena Park: William Peak Park swimming pool renovation .	(220,000)
(107) City of Pico Rivera: Complete restoration of Rio	(750,000)
(108) City of Cudahy Park: Replace old playground equipment to meet federal safety standards	(120,000)

(110) East Bay Regional Park District: Camp Ohlone in Sunol Regional Wilderness–Improvements .	(330,000)
(111) Committee of Restoration of Mission San Jose: Fremont seismic retrofit and repairs	(1,000,000)
(112) Theatre West Inc.: Theatre West repairs and to bring underserved public school pupils to the theatre	(115,000)
(113) Manzanar Committee: Manzanar War Relocation Center restoration .	(150,000)
(114) Concerned Citizens of South Central Los Angeles: Acquisition and construction of Antes Columbus Youth Center, soccer field and pocket park	(1,000,000)

(115) County of Sacramento: Effie Yeaw Nature Center rehabilitation and renovation	(370,000)
(116) Sunrise Recreation and Park District: Upgrade and replace playground equip–ment	(60,000)
(117) City of Lemon Grove: City Center Park	(330,000)
(118) City of El Cajon: Kennedy Park–Lighting . . .	(78,000)
(119) City of El Cajon: Kennedy Recreation Center	(8,000)
(120) City of La Mesa: La Mesita/Parkway Regional Sports Complex	(655,000)
(122) City of Chula Vista: Loma Verde park pool . .	(490,000)
(123) City of San Diego: Paradise Community Park . . .	(250,000)
(124) City of Lemon Grove: Park upgrade . . .	(190,000)

(125) City of San Diego: Southcrest Community Park/ Tot lot up–grade	(150,000)
(126) County of San Diego: Spring Valley Gymnasium and Teen Center/design and construction	(350,000)
(127) Twin Hills Youth and Recreation Park, Inc.: Twin Hills Little League Park	(75,000)
(128) City of Oakland: Martin Luther King Center	(850,000)
(129) City of La Cañada Flintridge: Rockridge Terrace purchase by City of La Cañada Flintridge for open space .	(450,000)
(130) City of Glendale: Deukmejian Wilderness Park	(300,000)

(131) County of Santa Clara: Design and construction of the expansion of the Youth Science Institute at Vasona Lake County Park	(300,000)
(132) County of San Mateo: Renovations and seismic and safety improvements to the Old County Courthouse (home of the San Mateo County Historical Museum)	(635,000)
(133) City of Monterey Park: Expansion of the Langley Senior Center .	(250,000)
(134) City of San Gabriel: Construct San Gabriel skate park	(300,000)
(135) City of Monterey Park: La Loma Park renovation .	(150,000)
(137) City of Ontario: Expand the De Anza Community Center	(500,000)

(139) City of Loma Linda: Little league baseball park	(280,000)
(140) City of San Bernardino: Refurbish an existing building in order to create a Mutlicultural Center	(300,000)
(141) City of Chino Hills: Refurbishment of the Sleepy Hollow Community Center	(250,000)
(142) City of Pomona: Renovation of Washington Park Community Center and Pool	(150,000)
(143) City of Chino: Villa Park Playground Refurbishment Project	(85,000)
(144) City of Daly City: Construction of Mid–Peninsula Boys and Girls Club	(750,000)
(145) San Mateo County: Funding for Sanchez Adobe site	(105,000)

(146) San Mateo County: Replace playground equipment at the Coyote Point Recreation Area .	(200,000)
(148) City of Pacifica: Supplement the cost of permanently repairing the historic Pacific Pier in Pacifica . . .	(500,000)
(149) City of San Jose: Edenvale Garden Park	(150,000)
(150) City of Santa Clara: Restoration of Casa Grande	(250,000)
(151) Camarillo Ranch Foundation: Restoration, preservation, and maintenance of Camarillo Ranch	(493,000)
(152) Homeboy Industries: Land acquisition and renovation	(100,000)
(153) City of San Leandro: Little league field–Corvallis school	(100,000)

(154) City of San Diego: Enhance existing play area to accommodate disabled access at the Lindbergh Park Tot Lot	(160,000)
(155) City of Yucaipa: Community Center/Gym . . .	(2,300,000)
(156) City of Artesia: Land Acquisition for A.J. Padelford Park and ADA compliance upgrade . . .	(100,000)
(157) City of Artesia: Family Resource Center	(100,000)
(158) City of Hawaiian Gardens: Build new recreation facility to meet ADA requirement; purchase new exercise equipment that is ADA compliant	(235,000)
(159) City of Bellflower: Fund YMCA/Teen Center	(250,000)

(160) Midpeninsula Open Space District (MPOSD): Fund improvements to selected trail easement transferred to the MPOSD to fund improvements to selected trail easements transferred to the MPOSD by AB 1366 . . .	(300,000)
(161) Nihonmachi Little Friends: Renovation of historic building in San Francisco	(550,000)
(162) GLBT Society of Northern California: California on–line archives of manuscripts	(250,000)
(163) Jewish Community Center of San Francisco: Construction	(1,000,000)

(164) San Francisco Neighbors Association: Construction of the San Francisco Neighborhood Resource Community Center	(500,000)
(166) San Francisco Recreation and Park Department: Stabilize and restore the Sunnyside Conservatory	(300,000)
(168) City of Daly City: Construction of the Bayshore Boys and Girls Club	(500,000)
(169) Coleman Advocates for Children and Youth: Construction of the Coleman Children and Youth Community Center	(100,000)
(170) San Francisco Recreation and Park Department: Restoration of John Muir Fishing Pier at Lake Merced	(400,000)

(172) County of Yolo: New Helvetia Park—Acquisition, development, and rehabilitation	(500,000)
(173) City of Inglewood: Refurbishment of Edward Vincent Park	(350,000)
(174) City of San Diego: Picnic Shelter–Clairmont Neighborhood Park	(55,000)
(175) City of San Diego: Ocean Beach Recreation Center–ADA Tot Lot Upgrade ...	(175,000)
(176) City of San Diego: Tecolate Nature Center–room addition ...	(200,000)
(177) City of San Diego: Santa Clara Recreation Center–New recreation center	(300,000)
(178) City of St. Helena: St. Helena ballpark	(500,000)

(179) Eagle Rock Community Preservation and Revitalization, Inc.: Eagle Rock Community revitalization	(300,000)
(180) City of Monterey Park Cascade Park: Fund rehabilitation	(225,000)
(181) City of Irwindale: Irwindale Community Center — Repair courtyard and patio	(150,000)
(183) City of Lemon Grove: Recreation Center	(81,000)
(184) City of Redlands: Local park facility	(2,000,000)
(185) City of Redding: Construct recreation and sports complex . . .	(3,000,000)
(186) City of La Palma: Construct new community center .	(1,040,000)

(188) County of San Diego Department of Parks and Recreation: Boys and Girls Club of Ramona—Construct a gymnasium	(250,000)
(189) City of Santee: Completion of Town Center Community Park	(200,000)
(195) Santa Cruz Sheriff's Activity League: Purchase vans used to transport youth to and from sports activities	(70,000)
(196) Contra Costa County: Sheriff's Charities, Inc. for the Peace Officer Memorial ..	(125,000)
(197) Martinez Police Activities League: Purchase computer and a van	(100,000)
(199) City of El Centro: El Centro's Municipal Pool	(50,000)

(200) Lassen Park Foundation: Complete construction of interpretive exhibits in open–air pavilions . . .	(100,000)
(201) Marysville Youth and Civic Center: Renovation and replacement of parking, building, and kitchen	(100,000)
(202) San Bernardino County: Downtown Crestline Facade improvement .	(100,000)
(204) Jurapa Area Recreation and Park District: Memorial Park Swimming Pool	(50,000)
(205) Black Chamber of Commerce: Radio Station FCC startup qualifications	(150,000)
(206) Jurapa Area Recreation and Park District: Memorial Park Athletic Field . .	(85,000)

(207) Jurapa Area Recreation and Park District: Memorial Park Community Center	(85,000)
(210) Martha's Village and Kitchen: Martha's Village facility expansion . .	(200,000)
(212) Sacramento County: Mather Regional Park improvements	(200,000)
(213) Los Angeles County United Way: United Way of Greater Los Angeles–Acquisition of facility and improvements	(200,000)
(216) City of Riverside: Janet Goeske Senior Center .	(200,000)
(219) City of Highland: Highland Community Park construction	(300,000)
(220) City of San Diego: Rancho Bernardo Community Aquatic Center	(250,000)

(221) City of Redlands: Redlands Sports Complex development .	(750,000)
(223) City of Yucaipa: Community center/ gym	(2,000,000)
(225) City of La Mesa: Briarcrest Park	(157,000)
(226) City of Oakland: Bertha Port Mini–Park and Willow Park Playgrounds	(600,000)
(227) Homenetmen, Glendale Chapter: Fund athletic programs . .	(158,000)
(228) City of San Diego : 1.5 mile bike path parallel to the San Diego River in Mission Valley	(400,000)
(229) City of Lakewood: Mae Boyar Park improvements	(500,000)
(230) Western Center for Archeology and Paleontology: Construction	(2,250,000)

(231) West Shores Youth Center: Exercise and equipment room construction	(50,000)
(232) City of Woodlake: Community pool facility	(100,000)
(233) Boys and Girls Club of Hayward: New facility construction	(500,000)
(234) City of Newman: Newman Youth Center–remodel	(100,000)
(235) City of Hanford: Hanford Learning Center	(300,000)
(236) City of Clarksburg: Swimming Pool Renovation	(100,000)
(237) City of West Hollywood: Multipurpose facility for youths and seniors	(100,000)
(239) North Tahoe: North Tahoe Youth Center	(200,000)
(240) Santa Barbara Zoological Gardens: Animal contact yard and outreach program	(335,000)

(242) City and County of San Francisco: Palace of Fine Arts—restoration and rehabilitation of structures and landscape . .	(3,000,000)
(243) Los Angeles County: For picnic area and sports field improvements at Cheviott Hills	(100,000)
(245) LA Conservation Corps: Ballona Creek Youth Center	(2,000,000)
(246) City of San Diego: Bay Terrace Park Recreation Center	(500,000)
(248) City of Huntington Beach: Bonneli Regional Youth Center	(500,000)
(252) Watts/ Willowbrook Boys and Girls Club: Complete construction of club	(500,000)

(253) City of Palo Alto: bay to Ridge Trail between Foothils Park and Los Trancos Open Space Reserve	(100,000)
(254) City of Palo Alto: Palo Alto Junior Zoo renovations	(100,000)

Provisions:

1. The Department of Parks and Recreation may allocate funds appropriated in Schedule (a)(226) of this item to the City of Oakland, to nonprofit organizations designated by the City of Oakland, or to both.

SEC. 9.5. The balance of the sum appropriated to the Department of Parks and Recreation in Schedule (a)(182) of Item 3790-101-0001 of the Budget Act of 1999 (Ch. 50, Stats. 1999) for a recreational grant to the City of Westminster for the purchase of passenger vans to serve Vietnamese seniors is hereby reappropriated to the Department of Parks and Recreation for a recreational grant to the City of Santa Ana for the purchase of passenger vans to serve Vietnamese seniors.

SEC. 10. The sum appropriated in Schedule (a) (3) of Item 3790-101-0005 to the Department of Parks and Recreation for the Delta Science Center for Marine and Delta Aquatic Education and Interpretive Programs is hereby reappropriated to the Department of Parks and Recreation for the East Bay Regional Park District for Marine and Delta Aquatic Education and Interpretive Programs.

SEC. 11. The sum appropriated in Schedule (a) (8) of Item 3790-101-0005 to the Department of Parks and Recreation for the City of Huntington Beach for storm drain modification to mitigate pollution impact on state beaches is reappropriated to the Department of Parks and Recreation for the County of Orange for storm drain modification to mitigate pollution impact on state beaches.

SEC. 12. Item 3790-102-0005 of Section 2.00 of the Budget Act of 2000 is amended to read:

3790–102–0005—For local assistance, Department of Parks and Recreation, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 pursuant to the Murray–Hayden Urban Parks and Youth Service Program, to be available for expenditure during the 2000–01, 2001–02 and 2002–03 fiscal years 79,580,000

Schedule:

(a) 80.25-Recreational Grants 79,580,000

(1) Competitive grants (non–project specific) ..... (1,740,000)

(c) Nonmotorized Trails Grants ..... (1,740,000)

(2) Specific Projects ..... (10,836,000)

(c) City of Folsom: Folsom Zoo ..... (1,889,000)

(d) California Science Center–African–American Museum at Exposition Park ..... (2,834,000)

(e) California Science Center School .. (6,113,000)

(4) Trails ..... (5,085,000)

(a) City of Lafayette: Construct a pedestrian bridge from Lafayette Community Center to the Lafayette Community Park ..... (285,000)

(b) City of Los Banos: Downtown Revitalization–Rails to Trails ..... (1,800,000)

(c) City of Redding: Expansion of bike and walk trail along the Sacramento River ..... (3,000,000)

(5) Murray–Hayden Grants ..... (47,233,000)

(a) City and County of San Francisco: Coleman Children and Youth Community Center in Excelsior District–capital outlay (142,000)

(b) City and County of San Francisco: Youth Mural Art Project in Bayview–Hunters Point and Youth Stewardship Program ... (189,000)

(c) City of Richmond: Richmond Natatorium, to enable seismic retrofit of the Natatorium . (378,000)

(d) City of El Monte: Construction of the Youth Learning/Activity Center	(378,000)
(e) City of Glendale: South Glendale mini–park development	(378,000)
(f) City of Inglewood: Edward Vincent Park	(378,000)
(g) City of San Diego: Joint–use facility at La Mirada with San Ysidro School District	(378,000)
(h) Sacramento Boys and Girls Club: Construction of Boys and Girls Club facility in South Sacramento	(473,000)
(i) City of Huntington Park: Regional Community Youth Center	(492,000)
(j) City of Los Angeles: Blythe Street Pocket Park	(520,000)
(k) City of Fontana: Center City park acquisition . . .	(709,000)

(*l*) Fresno Metropolitan Flood Control District: Construction costs for a park located on Kings Canyon and Huntington Avenue Areas	(709,000)
(m) City of Los Angeles: Renovation of Brand Park	(946,000)
(n) Boys and Girls Club of Hayward: Construction of 20,000–square–foot facility	(946,000)
(o) City of Los Angeles: San Pedro park improvements	(946,000)
(p) City of Los Angeles: Juntos Park: outdoor development at a recently acquired parcel to serve as a new park	(1,419,000)
(q) City of Los Angeles: Community Build Youth Center	(1,892,000)

(r) City of Fresno: Acquisition of the Palm Lakes Golf Course for the operation of Fresno Junior Golf serving disadvantaged youth	(236,000)
(s) City of Buena Park: Community park enhancements of deteriorated facilities	(236,000)
(t) City of Garden Grove: Village Green Park improvements .	(615,000)
(u) City of Westminster: Youth Activity Center Program Expansions	(709,000)
(v) City of La Puente: Youth Learning/Activity Center	(709,000)
(w) City of Lancaster: Whit B. Carter Park Development Project	(946,000)
(x) City of Anaheim: Maxwell Park Expansion Project from 15 to 21 acres . . .	(1,041,000)

(y) City of Los Angeles: Soccer Complex	(305,000)
(z) City and County of San Francisco: India Basin Shoreline Park	(378,000)
(ax) City of Oakland: West Oakland Playgrounds	(568,000)
(bx) City of Los Angeles: Hansen Dam Bluffs	(662,000)
(cx) County of Los Angeles: Ted Watkins Park	(780,000)
(dx) Santa Monica Mountains Conservancy: Compton–Slauson Natural Park	(946,000)
(ex) City of Oakland: Sanborn Park . .	(1,419,000)
(fx) City of Oakland: Union Point Park . .	(1,419,000)
(gx) City of San Diego: North Chollas Park	(1,892,000)
(hx) City of Maywood: Los Angeles River Parkway .	(2,365,000)

(ix) Santa Monica Mountains Conservancy: Arroyo Seco/Confluence Park . .	(4,730,000)
(jx) City of San Diego: Paradise Park Project	(32,000)
(kx) City of Lemon Grove: Berry Street Park	(38,000)
(kx1) City of Imperial Beach Sports Park	(90,000)
(*l*x) County of San Diego: Lamar Street Park	(213,000)
(mx) City of East Palo Alto: Youth Center	(236,000)
(mx1) City of San Diego: Boys and Girls Clubs of San Diego—Construction of Linda Vista Teen Center	(284,000)
(nx) City of Chula Vista: Greg Rogers Park	(284,000)
(ox) City of East Palo Alto: Bell Street Park	(331,000)

(px) City of East Palo Alto: Martin Luther King–Jack Farell Park	(331,000)
(px1) City of Stanton: Stanton Park	(473,000)
(qx) City of Huntington Park: Bonelli Regional Youth Center	(378,000)
(rx) City of Huntington Park: Park Improvement Project	(473,000)
(sx) City of Los Angeles: Tree People Two	(473,000)
(tx) City of San Diego: Bay Terrace School Joint Use Facility	(473,000)
(ux) County of San Diego: Bancroft Park acquisition .	(473,000)
(vx) YMCA of San Diego County: Border View expansion	(473,000)
(wx) City of Oakland: Studio Recreational Center in North Oakland	(473,000)

(xx) City of Stockton: Van Buskirk Community Center: gymnasium construction	(709,000)
(yx) City of Fontana: Center City park acquisition . . .	(709,000)
(yx1) Columbia Boys and Girls Club: Renovation of building in Tenderloin for after school programs	(804,000)
(zx) City of Bell: Bell Park Improvement Project	(946,000)
(ay) City of Pico Rivera: Rio Honda Park	(946,000)
(by) City of Los Angeles: Blythe Street expansion . .	(946,000)
(cy) City of Baldwin Park: Teen Center	(946,000)
(dy) City of Los Angeles: South Central Sport Center	(1,230,000)

(ey) Concerned Citizens of South Central Los Angeles: Acquisition and construction of Antes Columbus Youth Center, soccer field and pocket park (1,272,000)

(fy) Los Angeles Conservation Corps: Youth Center . . . . . (1,892,000)

(gy) City of Whittier: Children's wading pool reconstruction at Friends Park to comply with current standards . . (76,000)

(6b) Marine Sanctuary . . . . . (472,000)

(n) Wildlife Conservation Board: O'Neill Sea Odyssey facilities improvements . . . . . (472,000)

(6c) Soccer and baseball fields . . . . . (13,569,000)

(o) Bakersfield Police Athletic League: Construct multiuse playing field (50,000)

(p) Merced High Dugout Club: Merced High School Baseball Field Lights	(175,000)
(q) Coalinga–Huron Parks and Recreation District: Joint use sports complex	(300,000)
(r) City of Los Angeles: Boyle Heights Sports Center for development of sports fields both soccer and baseball	(300,000)
(s) City of Bellflower: Refurbish and upgrade baseball fields, restrooms, and announcer booths for Little League–run programs at Caruther, Simms, and Thompson Parks	(315,000)

(t) City of Downey: Refurbish and upgrade soccer, baseball, and softball fields for programs run by the American Youth Soccer Association, Junior Athletic Association, and Downey Girls' Softball Association	(325,000)
(u) County of San Diego: Lighting for joint use soccer and athletic field in the community of Borrego Springs .	(350,000)
(v) Turlock Regional Sports Complex Foundation: Purchase and construction of a sports complex, creating 8 to 10 youth soccer fields and two softball diamonds . .	(1,200,000)

(w) City of Oakley: Little League Operated–Baseball Fields Restrooms Project	(100,000)
(x) City of Tulare: Operated by AYSO–Elk Bayou Soccer Complex ...	(200,000)
(y) King City: King City Community Park (AYSO Operated) Youth Soccer Fields	(200,000)
(z) City of San Diego: AYSO Operated–Design and construction of Rancho Bernardo soccer fields	(200,000)
(ax) City of Covina: Development of the Charter Oak Community Sportsplex	(250,000)
(bx) City of Grass Valley: Mulcahy Field Soccer/ Baseball Complex operated by Alta Vista Neighborhood Group	(300,000)

(cx) City of La Quinta: Design and construction of soccer park	(500,000)
(dx) City of Redding: Infrastructure improvements and field improvements for historic Tiger Field .	(500,000)
(ex) City of Redlands: Redlands Sports Complex design and development including an AYSO operated soccer field	(500,000)
(fx) City of Palmdale: Little League and PONY League Operated–Youth baseball facility improvements .	(500,000)
(gx) City of Lancaster: AYSO Operated–Youth Soccer Organization Headquarters Building–National Soccer Complex	(500,000)

(hx) City of Tulare: Lighting, concrete picnic tables, and benches for Prosperity Sports Park	(20,000)
(ix) Town of Danville: Installation of synthetic playing turf at Diablo Vista Park	(250,000)
(jx) Livermore Area Recreation and Park District: William J. Payne Sports Park: Development of soccer fields	(289,000)
(kx) City of Oakley: Build soccer fields	(325,000)
(*l*x) City of Orange: Soccer field at Rock Creek Park	(974,000)
(mx) City of Lafayette: Construction of a multipurpose ballfield facility	(1,030,000)
(nx) City of Irvine: Park facility	(1,916,000)

(ox) City of Redlands: Design and development of a major sports complex . . . (2,000,000)

(7) City Park Specific . . . . . (645,000)

(a) San Francisco Arts Commission: Restore the Portals of the Past Monument in Golden Gate Park . . . . . (36,000)

(b) San Francisco: Restoration of the James A. Garfield and the Giuseppe Verde Monuments in Golden Gate Park . . . . . (109,000)

(c) City and County of San Francisco: Capital improvements to the National AIDS Memorial Grove in Golden Gate Park . . . . . (500,000)

Provisions:

1. Funds appropriated shall be available for encumbrance for 3 years after the date upon which the appropriated funds first became available for encumbrance. Disbursements in liquidation of encumbrances shall be made before or during 5 years following the last day the appropriation is available for encumbrance.

2. The Department of Parks and Recreation may

allocate funds appropriated in Schedules 5 (ex) and (fx) of this item to the City of Oakland, to nonprofit organizations designated by the City of Oakland, or to both.

3. The department of Parks and Recreation may allocate funds appropriated in Schedule 5(z) of this item to the Trust for Public Land for the purposes of the India Basin Shoreline Park.

SEC. 13. The sum appropriated in Schedule (17) of Item 3790-302-0005 to the Department of Parks and Recreation for the Santa Monica Mountains Trust for Leo Carillo State Beach, acquisition of adjacent property at Nicholas Canyon Ridge, a high priority for state parks is hereby reappropriated to the department for the Nature Trust of Santa Monica Mountains for Leo Carillo State Beach, acquisition of adjacent property at Nicholas Canyon Ridge, a high priority for state parks.

SEC. 14. The sum appropriated in Schedule (c) (3) of Item 3860-101-0001 to the Department of Water Resources for Yolo County for the Community of Esparto-Flood control improvements is hereby reappropriated to the department for Yolo County for the Community of Esparto and the Community of Madison-Flood control improvements.

SEC. 15. Item 3940-101-0418 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-0418—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Small Communities Grant Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 15,000,000

SEC. 16. Item 3940-101-0419 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-0419—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Water Recycling Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 25,000,000

SEC. 17. Item 3940-101-0744 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-0744—For local assistance, State Water Resources Control Board, payable from the 1986 Water Conservation and Water Quality Bond Fund to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 10,000,000

SEC. 18. Item 3940-101-6013 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6013—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Watershed Protection Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 20,000,000

SEC. 19. Item 3940-101-6016 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6016—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from Santa Ana River Watershed Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 133,000,000

SEC. 20. Item 3940-101-6017 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6017—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Lake Elsinore and San Jacinto Watershed Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years . 8,000,000

SEC. 21. Item 3940-101-6019 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6019—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Nonpoint Source Pollution Control Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 10,000,000

SEC. 22. Item 3940-101-6020 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6020—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the State Revolving Fund Loan Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 6,500,000

SEC. 23. Item 3940-101-6021 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6021—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Wastewater Construction Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 30,000,000

SEC. 24. Item 3940-101-6022 of Section 2.00 of the Budget Act of 2000 is amended to read:

3940-101-6022—For local assistance, State Water Resources Control Board, for payment to Item 3940–101–0001, payable from the Coastal Nonpoint Source Control Subaccount to be available for expenditure during the 2000–01, 2001–02, and 2002–03 fiscal years 10,000,000

SEC. 24.5. Provision 6 is added to Item 4200-101-0001 of the Budget Act of 2000, to read:

6. Of the funds appropriated in Schedule (a) of this item, $25,000 shall be allocated to Los Angeles County for People in Progress, Inc. to fund the county's local matching fund contribution required by Section 11840.12 of the Health and Safety Code.

SEC. 25. Of the funds appropriated in Item 5160-101-0001 of Section 2.00 of the Budget Act of 2000, $250,000 shall be allocated to the County of Marin for the Marin Brain Injury Network.

SEC. 26. Provision (10)(a)(4) of Item 6440-001-0001 of Section 2.00 of the Budget Act of 2000 is amended to read:

(4) $1,000,000 over and above any funds provided under (1) is provided to further expand MESA programs .

SEC. 27. Provision (10)(f) of Item 6440-001-0001 of Section 2.00 of the Budget Act of 2000 is amended to read:

(f) $2,500,000 is provided for systemwide graduate and professional school outreach to be matched by

$1,500,000 in university funds. Of these funds, $1,460,000 shall be provided for medical school outreach, $1,610,000 for engineering and science doctoral program outreach, and $930,000 for law school outreach.

SEC. 28. Item 8260-103-0001 of Section 2.00 of the Budget Act of 2000 is amended to read:

8260-103-0001—For local assistance,California Arts Council 31,235,400

Provisions:

3. Of the funds appropriated in this item, $5,000,000 shall be allocated to the Performing Arts Center of Los Angeles County for construction of the Walt Disney Concert Hall in the City of Los Angeles.
4. The funds specified in Provision 3 of this item are for one–time grants to the Performing Arts Center of Los Angeles County.
5. Of the funds appropriated in this item, $26,235,400 shall be for the following projects:
   (1) City of La Habra: Outreach Program at the Children's Museum of La Habra 250,000
   (3) New Conservatory Theatre: Children's Safe School Arts Project 50,000
   (4) San Francisco Mexican Museum: Construction of a permanent facility 500,000
   (5) National Maritime Museum Association: Maritime Educational Program for Northern California schoolchildren .. 250,000
   (6) City of San Francisco: DeYoung Museum 4,500,000
   (7) Bayview Opera House: Renovation and structural improvements 400,000
   (8) Filipino American National Historical Society, Sacramento/Delta Chapter: Documentary ''AnUntold Triumph'' . 25,000
   (9) Kids Write Plays Pro–gram 65,000
   (10) Armenian Film Foundation 78,400

(11) San Mateo and Los Angeles County Offices of Education: Civil Rights Project ''Sojourn to the Past''	350,000
(12) DQ University	300,000
(13) County of San Luis Obispo: Dana Adobe Rehabilitation Project	200,000
(14) City of San Luis Obispo: Children's Museum Expansion Project	200,000
(15) City of Arroyo Grande: South County Performing Arts Building	400,000
(16) Port San Luis Marine Institute: Floating Marine Laboratory	150,000
(18) La Mirada Theatre for Performing Arts	250,000
(19) Historical Society of West Covina: Heritage House and Heritage Gardens Park	85,000
(20) Fender Museum Foundation: Fender Museum of the Arts and Music	250,000
(21) Italian Cultural Society: Italian Cultural Center and Museum	300,000
(22) Elk Grove Historical Society: Old Stage Stop and Hotel Museum Project	100,000
(23) Galt Area Historical Society: McFarland Living History Ranch Project	100,000
(28) City of San Diego: Sikes Adobe State Point of Historic Interest Restora– tion	350,000
(29) The Wall Memorial: Completion of memorial to victims of HIV and AIDS	400,000
(30) Natural History Museum: Border Environment Education Program	1,000,000

(31) 100th/442nd/MIS WWI Memorial Foundation	500,000
(32) Jewish Federation Zimmer Museum	2,000,000
(33) Los Angeles Children's Museum	2,500,000
(34) ADL: Stop the Hate	1,000,000
(35) National Coalition for Redress/Reparations: NCRR Educational Program and Museum Display	50,000
(37) Skirball Cultural Center: Completion of Karen and Gary Winnick Family Heritage Hall	2,000,000
(39) Redondo Beach Performing Arts Center: Replace lavatory equipment in Performing Arts Center	250,000
(40) Torrance Cultural Arts Center: Construction of a black–box stage	250,000
(41) Lomita Railroad Museum Foundation, Inc.: Expansion of Railroad Museum	250,000
(42) African American Historical and Cultural Museum of the San Joaquin Valley: Construction and renovation of museum in Central Valley	250,000
(43) El Pueblo de Los Angeles: Streetscape improvements and restoration of historic buildings in Pico and Garnier blocks	2,000,000
(44) San Francisco Ballet	500,000
(45) Wajumbe Cultural Institution: $45,000 for Summer Cultural Arts and Education Camp; $84,000 for Multimedia and Community Television Lab for equipment	129,000
(47) Explorit! Science Center: Capital outlay assistance . . .	200,000

(48) Fresno Art Museum: Construction of the Sculpture Plaza Park	150,000
(49) Fresno Museum: Legion of Valor, data base, and related projects	150,000
(50) Chinese Historical Society of America: Construction of the Chinese American National Museum and Learning Center	200,000
(51) The Asian Art Museum of San Francisco: Museum renovation	500,000
(52) Inglewood Recreation, Parks, and Community Services . .	28,000
(54) Pan African Film and Arts Festival	200,000
(55) Sonoma County Museum: Sonoma County Museum Project	250,000
(56) Napa Valley Museum: Museum expansion	100,000
(57) Oakland Museum of California Foundation: Distribution of materials to high school students	150,000
(60) Modoc Arts Council: Modoc Amphitheater	200,000
(67) City of Visalia: Visalia Arts Center	50,000
(68) Youth Science Institute: Youth Science Institute Education Facility expansion	300,000
(71) County of San Bernardino: San Bernardino County Museum Mineral Exhibit	50,000
(74) Palos Verdes Symphony Orchestra	25,000
(75) Long Beach Museum of Art	300,000

(76) Legion of Valor Museum in Fresno: Creation of archival system for the purpose of establishing a permanent data base of original citations . . . 150,000

(77) Latino Museum of History, Art, and Culture 1,000,000

6. The funds appropriated by this item are for one–time grants to museums and cultural institutions to provide educational services to public school students and for one–time grants to museum and cultural institutions for capital outlay. In making this appropriation, it is the intent of the Legislature to provide a simple system for allocating funds to museums and cultural institutions that ensures accountability of public funds. It is not the intent of the Legislature to establish an ongoing system of local assistance for museums and cultural institutions.

7. (a) For purposes of this item, educational services may include teacher training, curriculum development, schoolsite presentations or workshops, distance learning, and reduced price or free admissions. No funds appropriated by this item may be expended for hiring of permanent staff, purchase of vehicles, or the general operating expenses of these museums. Funds appropriated by this item shall be used to supplement, and not supplant, current funding for educational services for public school students from other funding sources.

(b) On or before November 1, 2000, each museum and cultural institution shall submit to the California Arts Council a detailed expenditure plan on the proposed uses of the funds appropriated to it by this item for educational services. Notwithstanding Section 2.00 of this act, funds appropriated in this item for educational services may be expended only for educational services provided from July 1, 2000, to June 30, 2003, inclusive.

(c) The California Arts Council shall review and approve each expenditure plan to ensure that (1) funds are proposed to be expended for educational purposes consistent with paragraph (a) of this provision and (2) the expenditure plan proposes a cost–effective use of the funds. The council shall develop a process for reviewing,

approving, and paying grantees in a timely fashion. To ensure financial accountability, the council shall develop a reporting process and specify information to be reported by grantees on a regular basis.

(d) The California Arts Council shall report to the Joint Legislature Budget Committee by October 1, 2001, detailing expenditures made and programmatic outcomes achieved by each grant funded pursuant to this item during the 2000–01 fiscal year, and by October 1 for each subsequent fiscal year during which funds are expended, including, but not limited to, the number of students and teachers served, evidence of student achievement, curriculum materials developed, and evidence of professional growth among teachers trained.

8. (a) For purposes of this item, capital outlay includes expenditures for planning, working drawings, and repair, renovation, and construction of museum and cultural institution facilities. No funds appropriated by this item for purposes of capital outlay may be used for hiring of permanent staff, operating expenses, or non-capital-outlay-related expenditures.

(b) On or before November 1, 2000, each museum and cultural institution shall submit to the California Arts Council a detailed expenditure plan on the proposed uses of the funds appropriated to it by this item for capital outlay. Notwithstanding Section 2.00 of this act, funds appropriated in this item for capital outlay may be expended only for capital outlay purposes from July 1, 2000, to June 30, 2003, inclusive.

(c) The California Arts Council shall review and approve each expenditure plan to ensure that (1) funds are expended for the capital outlay purposes consistent with paragraph (a) of this provision and (2) the expenditure plan proposes a cost-effective use of the funds. The council shall develop a process for reviewing, approving, and paying grantees in a timely fashion. To ensure financial accountability, the council shall develop a reporting process and specify information for grantees to report on a regular basis.

(d) The California Arts Council shall report to the Joint Legislature Budget Committee by

October 1, 2001, detailing expenditures made and the outcome in terms of facilities repaired, renovated, or constructed for the 2000–01 fiscal year, and by October 1 for each subsequent fiscal year during which funds appropriated by this item are expended.

9. Of the funds appropriated in Schedule (ix) of Item 8260–001–0001, $250,000 shall be used by the California Arts Council to defray its expenses for support and related expenses for performing its responsibilities under this item. The council may enter into an interagency agreement to obtain personnel services relating to the review and approval of capital outlay expenditure plans.

SEC. 29. The sum appropriated by Schedule (b) of Item 8955-102-0001 to the Department of Veterans Affairs for the Santa Clarita Historical Veterans Memorial is hereby reappropriated to the department for the City of Santa Clarita Historical Veterans Memorial.

SEC. 30. The balance of the sum appropriated to the Department of Parks and Recreation in Schedule (a)(4.2) of Item 3790-102-0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998) for Bear Mountain Parks and Recreation District for repavement of basketball courts is hereby reappropriated to the Department of Parks and Recreation for allocation to the Bear Mountain Parks and Recreation District for soccer fields.

SEC. 31. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain necessary augmentations and adjustments to the appropriations made by the Budget Act of 2000 for support of state government for the 2000–01 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 673

An act to amend Section 14320 of the Business and Professions Code, relating to business practices.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 14320 of the Business and Professions Code is amended to read:

14320. (a) Subject to the provisions of Section 14340 a person shall be subject to a civil action by the owner of a registered mark and the remedies provided in Section 14330 for doing any of the following:

(1) Using, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale, or advertising of any goods or services on or in connection with which that use is likely to cause confusion or mistake or to deceive as to the source of origin of those goods or services.

(2) Reproducing, counterfeiting, copying, or colorably imitating any mark of that type and applying that reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution in this state of those goods or services. The registrant shall not be entitled under this paragraph to recover profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive.

(3) Knowingly facilitating, enabling, or otherwise assisting a person to manufacture, use, distribute, display, or sell any goods or services bearing any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter, without the consent of the registrant. Any action by a person is presumed to have been taken knowingly following delivery to that person by personal delivery, courier, or certified mail return receipt requested, of a written demand to cease and desist that is accompanied by all of the following:

(A) A copy of the certificate of registration and of any claimed reproduction, counterfeit, copy, or colorable imitation of the registered mark.

(B) A statement, made under penalty of perjury, by the owner of the registered mark, by an officer of the corporation that owns the registered mark, or by legal counsel for the owner of the registered mark, that includes all of the following:

(i) The name or description of the infringer.

(ii) The product or service and mark being or to be infringed.

(iii) The dates of the infringement.

(iv) Any other reasonable information to assist the recipient to identify the infringer.

(4) The presumption created in paragraph (3) does not affect the trademark owner's burden of showing that there was a violation of the trademark law.

(5) Paragraph (3) is applicable to a landlord or property owner who provides, rents, leases, or licenses the use of real property where any goods or services bearing any reproduction, counterfeit, copy, or colorable imitation of a mark registered pursuant to this chapter are sold, offered for sale, or advertised, where the landlord or property owner had control of the property and knew, or had reason to know, of the infringing activity.

(b) Notwithstanding any other provision of this chapter, the remedies given to the owner of the right infringed are limited as follows:

(1) If an infringer or violator is engaged solely in the business of printing the mark or violating matter for others and establishes that he or she was an innocent infringer or innocent violator, the owner of the right infringed is entitled only to an injunction against future printing of the mark by the innocent infringer or innocent violator.

(2) If the infringement complained of is contained in, or is part of, paid advertising matter in a newspaper, magazine, or other similar periodical, or in an electronic communication as defined in Title 18 U.S.C. Section 2510(12), the remedies of the owner of the right infringed against the publisher or distributor of the newspaper, magazine, or other similar periodical or electronic communication shall be confined to an injunction against the presentation of the advertising matter in future issues of the newspapers, magazines, or other similar periodicals or in further transmissions of the electronic communication. The limitation of this subdivision shall apply only to innocent infringers and innocent violators.

(3) Injunctive relief is not available to the owner of the right infringed with respect to an issue of a newspaper, magazine, or other similar periodical or electronic communication containing infringing matter if restraining the dissemination of the infringing matter in any particular issue of the periodical or in an electronic communication would delay the delivery of the issue or transmission of the electronic communication after the regular time for delivery and the delay would be due to the method by which publication and distribution of the periodical or transmission of the electronic communication is customarily conducted in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to the infringing matter.

(c) An innocent infringer or innocent violator is any person whose acts were committed without knowledge that the mark was intended to be used to cause confusion, mistake, or to deceive.

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 674

An act to amend Sections 22442.2 and 22445 of, and to add Section 6157.5 to, the Business and Professions Code, relating to consumer protection.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 6157.5 is added to the Business and Professions Code, to read:

6157.5. (a) All advertisements published, distributed, or broadcasted by or on behalf of a member seeking professional employment for the member in providing services relating to immigration or naturalization shall include a statement that he or she is an active member of the State Bar, licensed to practice law in this state. If the advertisement seeks employment for a law firm or law corporation employing more than one attorney, the advertisement shall include a statement that all the services relating to immigration and naturalization provided by the firm or corporation shall be provided by an active member of the State Bar or by a person under the supervision of an active member of the State Bar. This subdivision shall not apply to classified or ''yellow pages'' listings in a telephone or business directory of three lines or less that state only the name, address, and telephone number of the listed entity.

(b) If the advertisement is in a language other than English, the statement required by subdivision (a) shall be in the same language as the advertisement.

(c) This section shall not apply to members employed by public agencies or by nonprofit entities registered with the Secretary of State.

(d) A violation of this section by a member shall be cause for discipline by the State Bar.

SEC. 2. Section 22442.2 of the Business and Professions Code is amended to read:

22442.2. (a) An immigration consultant shall conspicuously display in his or her office a notice that shall be at least 12 inches by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the consultant's clientele, the following information:

(1) The full name, address, and evidence of compliance with any applicable bonding requirement including the bond number, if any.

(2) A statement that the consultant is not an attorney.

(b) Prior to providing any services, an immigration consultant shall provide the client with a written disclosure that shall include the immigration consultant's name, address, telephone number, agent for service of process, and evidence of compliance with any applicable bonding requirement, including the bond number, if any.

(c) (1) Except as provided in paragraph (2) or (3), an immigration consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as an immigration consultant, within the meaning of Section 22441, shall include in that advertisement a clear and conspicuous statement that the immigration consultant is not an attorney.

(2) Notwithstanding paragraph (1), a person engaging in the business or acting in the capacity of an immigration consultant who is not licensed as an attorney in any state or territory of the United States, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Immigration and Naturalization Service, shall include in any advertisement for services as an immigration consultant a clear and conspicuous statement that the consultant is not an attorney but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Immigration and Naturalization Service.

(3) Notwithstanding paragraph (1), a person engaging in the business or acting in the capacity of an immigration consultant who is not an active member of the State Bar of California, but is an attorney licensed in another state or territory of the United States and is admitted to practice before the Board of Immigration Appeals or the United States Immigration and Naturalization Service, shall include in any advertisement for services as an immigration consultant a clear and conspicuous statement that the consultant is not an attorney licensed to practice law in California but is an attorney licensed in another state or territory of the United States and is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Immigration and Naturalization Service.

(4) If an advertisement subject to this subdivision is in a language other than English, the statement required by this subdivision shall be in the same language as the advertisement.

SEC. 3. Section 22445 of the Business and Professions Code is amended to read:

22445. (a) A person who violates this chapter shall be subject to a civil penalty not to exceed one hundred thousand dollars ($100,000) for each violation, to be assessed and collected in a civil action brought by any person injured by the violation.

(b) In addition to the provisions of subdivision (a), a violation of this chapter is a misdemeanor punishable by a fine of not less than two thousand dollars ($2,000) or more than ten thousand dollars ($10,000), as to each client with respect to whom a violation occurs, or imprisonment in the county jail for not more than one year, or by both fine and imprisonment. However, payment of restitution to a client shall take precedence over payment of a fine.

(c) A second or subsequent violation of Sections 22442.2, 22442.3, and 22442.4 is a misdemeanor subject to the penalties specified in subdivisions (a) and (b). A second or subsequent violation of any other provision of this chapter is a felony punishable by imprisonment in state prison.

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 675

An act to amend Sections 12810 and 27361 of, and to amend, repeal, and add Sections 27360, 27360.5, 27363, 27363.5, and 27365 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) (1) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(2) Any conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any traffic accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) Any conviction of a violation of subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or 26707 shall not be given a violation point count.

(3) A violation of Section 23136 shall not result in a violation point count.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

(j) Any conviction of a violation of Section 27360 or 27360.5 shall be given a value of one point.

SEC. 2. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) (1) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(2) Any conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any traffic accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) Any conviction of a violation of paragraph (1) or (2) of subdivision (a) of Section 12814.6, subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or 26707 shall not be given a violation point count.

(3) A violation of Section 23136 shall not result in a violation point count.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

(j) Any conviction of a violation of Section 27360 or 27360.5 shall be given a value of one point.

SEC. 3. Section 27360 of the Vehicle Code is amended to read:

27360. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, to be transported upon a highway in the motor vehicle without providing and properly using, for each child or ward, a child passenger restraint system meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child under four years of age, regardless of weight, or weighing less than 40 pounds, regardless of age, in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803. The court may, at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(2) A second or subsequent offense under this section is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

The court may, at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to health departments of local jurisdictions, as defined in Section 16700 of the Welfare and Institutions Code, where the violation occurred, to be used for a community education program that includes, but is not limited to, demonstration of the installation of a child passenger restraint system for children of all ages and also assists economically disadvantaged families in obtaining those restraint systems through low-cost purchases or loans. The county or city health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the court system to facilitate the transfer of funds to the program. The county or city may contract for the implementation of the program. Prior to obtaining a child passenger restraint system pursuant to this section, a person shall attend an education program that includes demonstration of the proper installation and use of child passenger restraint systems.

As the proceeds from fines become available, county or city health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties or cities, including a semiannual verification that all programs listed are in existence. Each county or city shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

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

SEC. 4. Section 27360 is added to the Vehicle Code, to read:

27360. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward to be transported upon a highway in the motor vehicle without providing and properly securing the child or ward, in a child passenger restraint system meeting applicable federal motor vehicle safety standards unless the child or ward is at least one of the following:

(1) Six years of age or older.

(2) Weighs 60 pounds or more.

(b) No driver shall transport on a highway any child in a motor vehicle, as defined in Section 27315, without providing and properly

securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards unless the child is at least one of the following:

(1) Six years of age or older.

(2) Weighs 60 pounds or more.

This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead, refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

The court may, at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(2) A second or subsequent offense under this section is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

The court may, at its discretion, require any defendant described under this section to attend an education program that includes demonstration

of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to health departments of local jurisdictions, as defined in Section 16700 of the Welfare and Institutions Code, where the violation occurred, to be used for a community education program that includes, but is not limited to, demonstration of the installation of a child passenger restraint system for children of all ages and also assists economically disadvantaged families in obtaining those restraint systems through low-cost purchases or loans. The county or city health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the municipal court system to facilitate the transfer of funds to the program. The county or city may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall attend an education program that includes demonstration of proper installation and use of child passenger restraint systems.

As the proceeds from fines become available, county or city health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county or city shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

(e) This section shall become operative on January 1, 2002.

SEC. 5. Section 27360.5 of the Vehicle Code is amended to read:

27360.5. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward who is four years of age or older but less than 16 years of age and weighs 40 pounds or more to be transported upon a highway in the motor vehicle without providing and properly securing the child or ward in an

appropriate child restraint system or safety belt meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child who is four years of age or older but less than 16 years of age and weighs 40 pounds or more in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a child restraint education program that includes, but is not limited to, demonstration of the proper installation and use of child passenger restraint systems for children of all ages, and provides economically disadvantaged families with a child passenger restraint low-cost purchase or loaner program. Upon completion of the program, the defendant shall provide proof of participation in the program that includes an inspection of a child passenger restraint system that meets applicable federal safety standards. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803. The court may, at its discretion, require any defendant punishable under this paragraph to attend and education program that includes demonstration of the proper use of occupant restraint systems for children of all ages.

(2) A second or subsequent offense under this section is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803. The court may

at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county or city health departments where the violation occurred, to be used for an education program that includes, but is not limited to, the demonstration of proper installation and use of child passenger restraint systems for children of all ages and provides child restraints for loan or low-cost purchase.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

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

SEC. 6. Section 27360.5 is added to the Vehicle Code, to read:

27360.5. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, may permit his or her child or ward who is six years of age, but less than 16 years of age, or who is less than six years of age and weighs 60 pounds or more to be transported upon a highway in the motor vehicle without providing and properly securing the child or ward in an appropriate child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards.

(b) No driver may transport on a highway any child who is six years of age, but less than 16 years of age, or who is less than six years of age and weighs 60 pounds or more in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead, refers the defendant to a child restraint education program that includes, but is not limited to, demonstration of the proper installation and use of child passenger restraint systems for children of all ages, and provides

economically disadvantaged families with a child passenger restraint low-cost purchase or loaner program. Upon completion of the program, the defendant shall provide proof of participation in the program that includes an inspection of a child passenger restraint system that meets applicable federal safety standards. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

The court may, at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(2) A second or subsequent offense under this section is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

The court may at its discretion, require any defendant described under this section to attend an education program that includes demonstration of proper installation and use of child passenger restraint systems and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county or city health departments where the violation occurred, to be used for an education program that includes, but is not limited to, the demonstration of proper installation and use of child passenger restraint systems for children of all ages and provides child restraints for loan or low-cost purchase.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

(e) This section shall become operative on January 1, 2001.

SEC. 7. Section 27361 of the Vehicle Code is amended to read:

27361. Any law enforcement officer reasonably suspecting a violation of Section 27360 or 27360.5, or both of those sections, may stop any vehicle transporting a child appearing to the officer to be within the age or weight specified in Section 27360 or 27360.5. The officer may issue a notice to appear for a violation of Section 27360.

SEC. 8. Section 27363 of the Vehicle Code is amended to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available and the child is at least one year of age, a child may be transported without the use of such a system, but the child shall be secured by a seat belt.

(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. 9. Section 27363 is added to the Vehicle Code, to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available and the child is at least one year of age, a child may be transported without the use of that system, but the child shall be secured by a seatbelt.

(c) A child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the

backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

(d) This section shall become operative on January 1, 2002.

SEC. 10. Section 27363.5 of the Vehicle Code is amended to read:

27363.5. (a) Every public or private hospital, clinic, or birthing center, shall, at the time of or before the discharge of a child under the age of four years, or weighing less than 40 pounds, provide and discuss information on the law requiring child passenger restraint systems to the parents or the person to whom the child is released.

(b) A public or private hospital, clinic, or birthing center shall not be responsible for the failure of the parent or person to whom the child is released to use a child passenger restraint system.

(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. 11. Section 27363.5 is added to the Vehicle Code, to read:

27363.5. (a) Every public or private hospital, clinic, or birthing center, shall, at the time of the discharge of a child provide and discuss information on the current law requiring child passenger restraint systems to the parents or the person to whom the child is released when at least one of the following conditions is met:

(1) The child is less than six years of age.

(2) The child weighs less than 60 pounds.

(b) A public or private hospital, clinic, or birthing center shall not be responsible for the failure of the parent or person to whom the child is released to use a child passenger restraint system.

(c) This section shall become operative on January 1, 2002.

SEC. 12. Section 27365 of the Vehicle Code is amended to read:

27365. (a) (1) Every car rental agency in California shall inform each of its customers of the provisions of Section 27360 by posting, in a place conspicuous to the public in each established place of business of the agency, a notice not smaller than 15 inches by 20 inches which states the following:

''CALIFORNIA LAW REQUIRES ALL CHILDREN UNDER THE AGE OF 4, REGARDLESS OF WEIGHT, OR WEIGHING LESS THAN 40 POUNDS, REGARDLESS OF AGE, TO BE TRANSPORTED IN A CHILD RESTRAINT SYSTEM. THIS AGENCY IS REQUIRED TO PROVIDE FOR RENTAL A CHILD RESTRAINT SYSTEM IF YOU DO NOT HAVE SUCH A SYSTEM YOURSELF.''

(2) The posted notice specified in paragraph (1) is not required if the car rental agency's place of business is located in a hotel which has a

business policy prohibiting the posting of signs or notices in any area of the hotel. In that case, a car rental agency shall furnish a written notice to each customer which contains the same information as required for the posted notice.

(b) Every car rental agency in California shall have available for, and shall, upon request, provide for rental to, adults traveling with children under the age of four, regardless of weight, or weighing less than 40 pounds, regardless of age, child passenger seat restraint systems meeting applicable federal motor vehicle safety standards on the date of the rental transaction, in good and safe condition, with no missing original parts, and not older than five years.

(c) A violation of this section is an infraction punishable by a fine of one hundred dollars ($100).

(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. 13. Section 27365 is added to the Vehicle Code, to read:

27365. (a) (1) Every car rental agency in California shall inform each of its customers of the provisions of Section 27360 by posting, in a place conspicuous to the public in each established place of business of the agency, a notice not smaller than 15 inches by 20 inches which states the following: ''CALIFORNIA LAW REQUIRES ALL CHILDREN WHO ARE 5 YEARS OF AGE OR LESS OR WHO WEIGH LESS THAN 60 POUNDS TO BE TRANSPORTED IN A CHILD RESTRAINT SYSTEM. THIS AGENCY IS REQUIRED TO PROVIDE FOR RENTAL A CHILD RESTRAINT SYSTEM IF YOU DO NOT HAVE A CHILD RESTRAINT SYSTEM YOURSELF.''

(2) The posted notice specified in paragraph (1) is not required if the car rental agency's place of business is located in a hotel which has a business policy prohibiting the posting of signs or notices in any area of the hotel. In that case, a car rental agency shall furnish a written notice to each customer which contains the same information as required for the posted notice.

(b) Every car rental agency in California shall have available for, and shall, upon request, provide for rental to, adults traveling with children under seven years of age, child passenger seat restraint systems that meet applicable federal motor vehicle safety standards on the date of the rental transaction, are in good and safe condition, with no missing original parts, and are not older than five years.

(c) A violation of this section is an infraction punishable by a fine of one hundred dollars ($100).

(d) This section shall become operative on January 1, 2002.

SEC. 14. Section 2 of this bill incorporates amendments to Section 12810 of the Vehicle Code proposed by both this bill and SB 1403. 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 12810 of the Vehicle Code, and (3) this bill is enacted after SB 1403, in which case Section 1 of this bill shall not become operative.

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

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

CHAPTER 676

An act to amend Sections 2544, 3041, and 3059 of, and to repeal Section 3041.1 of, the Business and Professions Code, and to amend Sections 11024, 11026, 11150, and 11210 of the Health and Safety Code, relating to optometry.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Nothing in this act shall be construed to limit the scope of practice of an optometrist as it existed prior to the effective date of this act.

SEC. 2. Section 2544 of the Business and Professions Code is amended to read:

2544. An assistant in the office of a physician and surgeon or optometrist acting under the direct responsibility and supervision of the physician and surgeon or optometrist may fit prescription lenses. Under the direct responsibility and supervision of the ophthalmologist or

optometrist, an assistant in the office of an ophthalmologist or optometrist may also do the following:

(a) Prepare patients for examination.

(b) Collect preliminary patient data, including taking a patient history.

(c) Perform simple noninvasive testing of visual acuity, pupils, and ocular motility.

(d) Perform automated visual field testing.

(e) Perform ophthalmic photography and digital imaging.

(f) Perform tonometry.

(g) Perform lensometry.

(h) Perform nonsubjective auto refraction in connection with subjective refraction procedures performed by an ophthalmologist or optometrist.

(i) Administer cycloplegiacs, mydriatics, and topical anesthetics that are not controlled substances, for ophthalmic purposes.

(j) Perform pachymetry, keratometry, A scans, B scans, and electrodiagnostic testing.

SEC. 3. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye, including lenses which may be classified as drugs or devices by any law of the United States or of this state.

(5) The use of topical pharmaceutical agents for the sole purpose of the examination of the human eye or eyes for any disease or pathological condition. The topical pharmaceutical agents shall include mydriatics, cycloplegics, anesthetics, and agents for the reversal of mydriasis.

(b) (1) An optometrist who is certified to use therapeutic pharmaceutical agents, pursuant to Section 3041.3, may also diagnose

and exclusively treat the human eye or eyes, or any of its appendages, for all of the following conditions:

(A) Through medical treatment, infections of the anterior segment and adnexa, excluding the lacrimal gland, the lacrimal drainage system and the sclera. Nothing in this section shall authorize any optometrist to treat a person with AIDS for ocular infections.

(B) Ocular allergies of the anterior segment and adnexa.

(C) Ocular inflammation, nonsurgical in cause, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over the age of 18. Unilateral nongranulomatous idiopathic iritis recurring within one year of the initial occurrence shall be referred to an ophthalmologist. An optometrist shall consult with an ophthalmologist if a patient has a recurrent case of episcleritis within one year of the initial occurrence. An optometrist shall consult with an ophthalmologist if a patient has a recurrent case of peripheral corneal inflammatory keratitis within one year of the initial occurrence.

(D) Traumatic or recurrent conjunctival or corneal abrasions and erosions.

(E) Corneal surface disease and dry eyes.

(F) Ocular pain, not related to surgery, associated with conditions optometrists are authorized to treat.

(G) Pursuant to subdivision (f), primary open angle glaucoma in patients over the age of 18.

(2) For purposes of this section, ''treat'' means the use of therapeutic pharmaceutical agents, as described in subdivision (c), and the procedures described in subdivision (e).

(c) In diagnosing and treating the conditions listed in subdivision (b), an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3, may use all of the following therapeutic pharmaceutical agents exclusively:

(1) All of the topical pharmaceutical agents listed in paragraph (5) of subdivision (a) as well as topical miotics for diagnostic purposes.

(2) Topical lubricants.

(3) Topical antiallergy agents. In using topical steroid medication for the treatment of ocular allergies, an optometrist shall do the following:

(A) Consult with an ophthalmologist if the patient's condition worsens 72 hours after diagnosis.

(B) Consult with an ophthalmologist if the inflammation is still present three weeks after diagnosis.

(C) Refer the patient to an ophthalmologist if the patient is still on the medication six weeks after diagnosis.

(D) Refer the patient to an ophthalmologist if the patient's condition recurs within three months.

(4) Topical antiinflammatories. In using topical steroid medication for:

(A) Unilateral nonrecurrent nongranulomatous idiopathic iritis or episcleritis, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 72 hours after the diagnosis, or if the patient's condition has not resolved three weeks after diagnosis. If the patient is still receiving medication for these conditions six weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) Peripheral corneal inflammatory keratitis, excluding Moorens and Terriens diseases, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 48 hours after diagnosis. If the patient is still receiving the medication two weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) Traumatic iritis, an optometrist shall consult with an ophthalmologist if the patient's condition worsens 72 hours after diagnosis and shall refer the patient to an ophthalmologist if the patient's condition has not resolved one week after diagnosis.

(5) Topical antibiotic agents.

(6) Topical hyperosmotics.

(7) Topical antiglaucoma agents pursuant to the certification process defined in subdivision (f).

(A) The optometrist shall not use more than two concurrent topical medications in treating the patient for primary open angle glaucoma. A single combination medication that contains two pharmacological agents shall be considered as two medications.

(B) The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use of two topical medications or if indications of narrow angle or secondary glaucoma develop.

(C) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in developing the glaucoma treatment plan and shall notify the physician in writing of any changes in the patient's glaucoma medication. The physician shall provide written confirmation of such consultations and notifications.

(8) Nonprescription medications used for the rational treatment of an ocular disorder.

(9) Oral antihistamines. In using oral antihistamines for the treatment of ocular allergies, the optometrist shall refer the patient to an ophthalmologist if the patient's condition has not resolved two weeks after diagnosis.

(10) Prescription oral nonsteroidal antiinflammatory agents. The agents shall be limited to three days' use. If the patient's condition has not resolved three days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(11) The following oral antibiotics for medical treatment as set forth in subparagraph (A) of paragraph (1) of subdivision (b): tetracyclines, dicloxacillin, amoxicillin, amoxicillin with clavulanate, erythromycin, clarythromycin, cephalexin, cephadroxil, cefaclor, trimethoprim with sulfamethoxazole, ciprofloxacin, and azithromycin. The use of azithromycin shall be limited to the treatment of eyelid infections and chlamydial disease manifesting in the eyes.

(A) If the patient has been diagnosed with a central corneal ulcer and the condition has not improved 24 hours after diagnosis, the optometrist shall consult with an ophthalmologist. If the central corneal ulcer has not improved 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If the patient is still receiving antibiotics 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) If the patient has been diagnosed with preseptal cellulitis or dacryocystitis and the condition has not improved 72 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If a patient with preseptal cellulitis or dacryocystitis is still receiving oral antibiotics 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) If the patient has been diagnosed with blepharitis and the patient's condition does not improve after six weeks of treatment, the optometrist shall consult with an ophthalmologist.

(D) For the medical treatment of all other medical conditions as set forth in subparagraph (A) of paragraph (1) of subdivision (b), if the patient's condition worsens 72 hours after diagnosis, the optometrist shall consult with an ophthalmologist. If the patient's condition has not resolved 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(12) Topical antiviral medication and oral acyclovir for the medical treatment of the following: herpes simplex viral keratitis, herpes simplex viral conjunctivitis and periocular herpes simplex viral dermatitis; and varicella zoster viral keratitis, varicella zoster viral conjunctivitis and periocular varicella zoster viral dermatitis.

(A) If the patient has been diagnosed with herpes simplex keratitis or varicella zoster viral keratitis and the patient's condition has not improved seven days after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If a patient's condition has not resolved three weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) If the patient has been diagnosed with herpes simplex viral conjunctivitis, herpes simplex viral dermatitis, varicella zoster viral conjunctivitis or varicella zoster viral dermatitis, and if the patient's condition worsens seven days after diagnosis, the optometrist shall consult with an ophthalmologist. If the patient's condition has not resolved three weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(C) In all cases, the use of topical antiviral medication shall be limited to three weeks, and the use of oral acyclovir shall be limited to 10 days.

(13) Oral analgesics that are not controlled substances.

(14) Codeine with compounds and hydrocodone with compounds as listed in the California Uniform Controlled Substances Act (Section 11000 of the Health and Safety Code et seq.) and the United States Uniform Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use of these agents shall be limited to three days, with a referral to an ophthalmologist if the pain persists.

(d) In any case where this chapter requires that an optometrist consult with an ophthalmologist, the optometrist shall maintain a written record in the patient's file of the information provided to the ophthalmologist, the ophthalmologist's response and any other relevant information. Upon the consulting ophthalmologist's request, the optometrist shall furnish a copy of the record to the ophthalmologist.

(e) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may also perform all of the following:

(1) Mechanical epilation.

(2) Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, and urinalysis.

(3) Punctal occlusion by plugs, excluding laser, cautery, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.

(4) The prescription of therapeutic contact lenses.

(5) Removal of foreign bodies of the cornea, eyelid, and conjunctiva. Corneal foreign bodies shall be nonperforating, be no deeper than the anterior stroma, and require no surgical repair upon removal. Within the central three millimeters of the cornea, the use of sharp instruments is prohibited.

(6) For patients over the age of 12 years, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The State Board of Optometry shall certify an optometrist to perform this procedure after completing 10 of the procedures under the supervision of an ophthalmologist as confirmed by the ophthalmologist.

(7) No injections other than the use of an auto-injector to counter anaphylaxis.

(f) The State Board of Optometry shall grant a certificate to an optometrist certified pursuant to Section 3041.3 for the treatment of primary open angle glaucoma in patients over the age of 18 only after the optometrist meets the following requirements:

(1) Satisfactory completion of a didactic course of not less than 24 hours in the diagnosis, pharmacological and other treatment and management of glaucoma. The 24-hour glaucoma curriculum shall be developed by an accredited California school of optometry. Any applicant who graduated from an accredited California school of optometry on or after May 1, 2000, shall be exempt from the 24-hour didactic course requirement contained in this paragraph.

(2) After completion of the requirement contained in paragraph (1), collaborative treatment of 50 glaucoma patients for a period of two years for each patient under the following terms:

(A) After the optometrist makes a provisional diagnosis of glaucoma, the optometrist and the patient shall identify a collaborating ophthalmologist.

(B) The optometrist shall develop a treatment plan that considers for each patient target intraocular pressures, optic nerve appearance and visual field testing for each eye, and an initial proposal for therapy.

(C) The optometrist shall transmit relevant information from the examination and history taken of the patient along with the treatment plan to the collaborating ophthalmologist. The collaborating ophthalmologist shall confirm or refute the glaucoma diagnosis within 30 days. To accomplish this, the collaborating ophthalmologist shall perform a physical examination of the patient.

(D) Once the collaborating ophthalmologist confirms the diagnosis and approves the treatment plan in writing, the optometrist may begin treatment.

(E) The optometrist shall use no more than two concurrent topical medications in treating the patient for glaucoma. A single combination medication that contains two pharmacologic agents shall be considered as two medications. The optometrist shall notify the collaborating ophthalmologist in writing if there is any change in the medication used to treat the patient for glaucoma.

(F) Annually after commencing treatment, the optometrist shall provide a written report to the collaborating ophthalmologist about the achievement of goals contained in the treatment plan. The collaborating ophthalmologist shall acknowledge receipt of the report in writing to the optometrist within 10 days.

(G) The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use of two topical medications, or if indications of secondary glaucoma

develop. At his or her discretion, the collaborating ophthalmologist may periodically examine the patient.

(H) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in preparation of the treatment plan and shall notify the physician in writing if there is any change in the patient's glaucoma medication. The physician shall provide written confirmation of the consultations and notifications.

(I) The optometrist shall provide the following information to the patient in writing: nature of the working or suspected diagnosis, consultation evaluation by a collaborating ophthalmologist, treatment plan goals, expected followup care, and a description of the referral requirements. The document containing the information shall be signed and dated by both the optometrist and the ophthalmologist and maintained in their files.

(3) When the requirements contained in paragraphs (1) and (2) have been satisfied, the optometrist shall submit proof of completion to the State Board of Optometry and apply for a certificate to treat primary open angle glaucoma. That proof shall include corroborating information from the collaborating ophthalmologist. If the ophthalmologist fails to respond within 60 days of a request for information from the State Board of Optometry, the board may act on the optometrist's application without that corroborating information.

(4) After an optometrist has treated a total of 50 patients for a period of two years each and has received certification from the State Board of Optometry, the optometrist may treat the original 50 collaboratively treated patients independently, with the written consent of the patient. However, any glaucoma patients seen by the optometrist before the two-year period has expired for each of the 50 patients shall be treated under the collaboration protocols described in this section.

(g) Notwithstanding any other provision of law, an optometrist shall not treat children under one year of age with therapeutic pharmaceutical agents.

(h) Any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(i) Notwithstanding any other provision of law, the practice of optometry does not include performing surgery. ''Surgery'' means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means in a manner not specifically authorized by this act. Nothing in the act amending this section shall limit an optometrist's authority, as it existed prior to the effective date of the act amending this section, to utilize diagnostic laser and ultrasound technology.

(j) All collaborations, consultations, and referrals made by an optometrist pursuant to this section shall be to an ophthalmologist located geographically appropriate to the patient.

SEC. 4. Section 3041.1 of the Business and Professions Code is repealed.

SEC. 5. Section 3059 of the Business and Professions Code is amended to read:

3059. (a) It is the intent of the Legislature that the public health and safety would be served by requiring all holders of licenses to practice optometry granted under this chapter to continue their education after receiving their licenses. The board shall adopt regulations that require, as a condition to the renewal thereof, that all holders of licenses submit proof satisfactory to the board that they have informed themselves of the developments in the practice of optometry occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.

(b) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for reasons of health, military service, or other good cause.

(c) If for good cause compliance cannot be met for the current year, the board may grant exemption of compliance for that year, provided that a plan of future compliance that includes current requirements as well as makeup of previous requirements is approved by the board.

(d) The board may require that proof of compliance with this section be submitted on an annual or biennial basis as determined by the board.

(e) The board may adopt regulations to require licensees to maintain current certification in cardiopulmonary resuscitation. Training required for the granting or renewal of a cardiopulmonary certificate shall not be credited towards the requirements of subdivision (a) or (f).

(f) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment, and management of ocular disease as follows: 12 hours on glaucoma, 10 hours on ocular infections; five hours on inflammation and topical steroids; six hours on systemic medications and two hours on the use of pain medications.

(g) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(h) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(i) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abuse or neglected elder persons.

SEC. 6. Section 11024 of the Health and Safety Code is amended to read:

11024. ''Physician,'' ''dentist,'' ''podiatrist,'' ''pharmacist,'' ''veterinarian,'' and ''optometrist'' means persons who are licensed to practice their respective professions in this state.

SEC. 7. Section 11026 of the Health and Safety Code is amended to read:

11026. ''Practitioner'' means any of the following:

(a) A physician, dentist, veterinarian, podiatrist, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, or a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code.

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(c) A scientific investigator, or other person licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.

SEC. 8. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code, or an out-of-state

prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

SEC. 9. Section 11210 of the Health and Safety Code is amended to read:

11210. A physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code may prescribe for, furnish to, or administer controlled substances to his or her patient when the patient is suffering from a disease, ailment, injury, or infirmities attendant upon old age, other than addiction to a controlled substance.

The physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code shall prescribe, furnish, or administer controlled substances only when in good faith he or she believes the disease, ailment, injury, or infirmity requires the treatment.

The physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code shall prescribe, furnish, or administer controlled substances only in the quantity and for the length of time as are reasonably necessary.

SEC. 10. It is the intent of the Legislature that the law governing the scope of practice of optometry shall not be amended prior to January 1, 2009, and that no legislation to this effect be introduced prior to January 1, 2008. However, the Legislature intends that parties who are interested

in the scope of practice of optometrists commence negotiations on any proposed changes to the law governing this practice no later than January 1, 2007.

CHAPTER 677

An act to add Section 4125 to the Business and Professions Code, relating to pharmacies.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 4125 is added to the Business and Professions Code, to read:

4125. (a) Every pharmacy shall establish a quality assurance program that shall, at a minimum, document medication errors attributable, in whole or in part, to the pharmacy or its personnel. The purpose of the quality assurance program shall be to assess errors that occur in the pharmacy in dispensing or furnishing prescription medications so that the pharmacy may take appropriate action to prevent a recurrence.

(b) Records generated for and maintained as a component of a pharmacy's ongoing quality assurance program shall be considered peer review documents and not subject to discovery in any arbitration, civil, or other proceeding, except as provided hereafter. That privilege shall not prevent review of a pharmacy's quality assurance program and records maintained as part of that system by the board as necessary to protect the public health and safety or if fraud is alleged by a government agency with jurisdiction over the pharmacy. Nothing in this section shall be construed to prohibit a patient from accessing his or her own prescription records. Nothing in this section shall affect the discoverability of any records not solely generated for and maintained as a component of a pharmacy's ongoing quality assurance program.

(c) This section shall become operative on January 1, 2002.

SEC. 2. The California State Board of Pharmacy shall adopt regulations on or before September 1, 2001, specifying the requirements and implementation of quality assurance programs established pursuant to Section 4125 of the Business and Professions Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will

be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 678

An act to amend Sections 8741, 8761, 8762, 8771, and 8773.2 of the Business and Professions Code, and to amend Section 66466 of the Government Code, relating to land surveyors.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 8741 of the Business and Professions Code is amended to read:

8741. (a) The first division of the examination shall test the applicant's fundamental knowledge of surveying, mathematics, and basic science. The board shall prescribe by regulation reasonable educational or experience requirements including two years of postsecondary education in land surveying, two years of experience in land surveying, or a combination of one year of postsecondary education and one year of experience in land surveying for admission to the first division of the examination. Applicants who have passed the engineer-in-training examination, or who hold professional engineer registration, are exempt from this division of the examination.

The second division of the examination shall test the applicant's ability to apply his or her knowledge and experience and to assume responsible charge in the professional practice of land surveying.

(b) The applicant for the second division examination shall have successfully passed the first division examination, or shall be exempt therefrom. The applicant shall be thoroughly familiar with (1) the procedure and rules governing the survey of public lands as set forth in ''Manual of Surveying Instructions,'' published by the Bureau of Land Management, Department of the Interior, Washington, D.C. and (2) the principles of real property relating to boundaries and conveyancing.

(c) The board may by rule provide for a waiver of the first division of the examination for applicants whose education and experience qualifications substantially exceed the requirements of Section 8742.

(d) The board may by rule provide for a waiver of the second division of the examination and the assignment to a special examination for those applicants whose educational qualifications are equal to, and whose experience qualifications substantially exceed, those qualifications established under subdivision (c). The special examination may be either written or oral, or a combination of both.

SEC. 2. Section 8761 of the Business and Professions Code is amended to read:

8761. Any licensed land surveyor or registered civil engineer may practice land surveying and prepare maps, plats, reports, descriptions, or other documentary evidence in connection with that practice. All maps, plats, reports, descriptions, or other documents issued by the licensed land surveyor or registered civil engineer shall be signed by the surveyor or engineer to indicate the surveyor's or engineer's responsibility for them. In addition to the signature, the map, plat, report, description, or other document shall bear the seal or stamp of the licensee or registrant and the expiration date of the license or registration. If the map, plat, report, description, or other document has multiple pages or sheets, the signature, seal or stamp, and expiration date of the license or registration need only appear on the originals of the map or plat and on the title sheet of the report, description, or other document.

It is unlawful for any person to sign, stamp, seal, or approve any map, plat, report, description, or other document unless the person is authorized to practice land surveying.

SEC. 2.5. Section 8761 of the Business and Professions Code is amended to read:

8761. Any licensed land surveyor or registered civil engineer may practice land surveying and prepare maps, plats, reports, descriptions, or other documentary evidence in connection with that practice. All maps, plats, reports, descriptions, or other documents issued by the licensed land surveyor or registered civil engineer shall be signed by the surveyor or engineer to indicate the surveyor's or engineer's responsibility for them. In addition to the signature, the map, plat, report, description, or other document shall bear the seal or stamp of the licensee or registrant and the expiration date of the license or registration. If the map, plat, report, description, or other document has multiple pages or sheets, the signature, seal or stamp, and expiration date of the license or registration need only appear on the originals of the map or plat and on the title sheet of the report, description, or other document.

It is unlawful for any person to sign, stamp, seal, or approve any map, plat, report, description, or other document unless the person is authorized to practice land surveying.

It is unlawful for any person to stamp or seal any map, plat, report, description, or other document with the seal after the certificate of the

licensee that is named on the seal has expired or has been suspended or revoked, unless the certificate has been renewed or reissued.

SEC. 3. Section 8762 of the Business and Professions Code is amended to read:

8762. After making a field survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey was made, a record of the survey.

After making a field survey in conformity with the practice of land surveying, the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(a) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

(b) A material discrepancy with the information contained in any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States. For purposes of this subdivision, a ''material discrepancy'' is limited to a material discrepancy in the position of points or lines, or in dimensions.

(c) Evidence that, by reasonable analysis, might result in materially alternate positions of lines or points, shown on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States.

(d) The establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

(e) The points or lines set during the performance of a field survey of any parcel described in any deed or other instrument of title recorded in the county recorder's office are not shown on any subdivision map, official map, or record of survey.

The record of survey required to be filed pursuant to this section shall be filed within 90 days after the setting of boundary monuments during the performance of a field survey or within 90 days after completion of a field survey, whichever occurs first.

If the 90-day time limit contained in this section cannot be complied with for reasons beyond the control of the licensed land surveyor or registered civil engineer, the 90-day time period shall be extended until the time at which the reasons for delay are eliminated. If the licensed land surveyor or registered civil engineer cannot comply with the 90-day time limit, he or she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter stating that he or she is unable to comply. The letter shall provide an estimate of the date for completion of the record of survey, the reasons for the delay, and a general statement as to the location of the survey, including the assessor's parcel number or numbers.

The licensed land surveyor or registered civil engineer shall not initially be required to provide specific details of the survey. However, if other surveys at the same location are performed by others which may affect or be affected by the survey, the licensed land surveyor or registered civil engineer shall then provide information requested by the county surveyor without unreasonable delay.

Any record of survey filed with the county surveyor shall, after being examined by him or her, be filed with the county recorder. The county recorder shall provide the preparer of the map with the filing data within 10 days of the filing of the map.

SEC. 4. Section 8771 of the Business and Professions Code is amended to read:

8771. (a) Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed, to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey.

(b) When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, maintained, resurfaced, or relocated, and a corner record or record of survey of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location if any monument could be destroyed, damaged, covered, or otherwise obliterated, and a corner record or record of survey filed with the county surveyor prior to the recording of a certificate of completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished without devious surveys necessarily originating on

monuments differing from those that currently control the area. It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, streets or right-of-way or easement lines shall not be deemed adequate for this purpose unless specifically noted on the corner record or record of survey of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

(c) The decision to file the required corner record or a record of survey shall be at the election of the licensed land surveyor or registered civil engineer submitting the document.

SEC. 4.5. Section 8771 of the Business and Professions Code is amended to read:

8771. (a) Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed, to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey.

(b) When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, maintained, resurfaced, or relocated, and a corner record or record of survey of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location if any monument could be destroyed, damaged, covered, or otherwise obliterated, and a corner record or record of survey filed with the county surveyor prior to the recording of a certificate of completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished without devious surveys necessarily originating on monuments differing from those that currently control the area. It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, streets or right-of-way or easement lines shall not be

deemed adequate for this purpose unless specifically noted on the corner record or record of survey of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

(c) The decision to file either the required corner record or a record of survey pursuant to subdivision (b) shall be at the election of the licensed land surveyor or registered civil engineer submitting the document.

SEC. 5. Section 8773.2 of the Business and Professions Code is amended to read:

8773.2. (a) A ''corner record'' submitted to the county surveyor or engineer shall be examined by him or her for compliance with subdivision (d) of Section 8765 and Sections 8773, 8773.1, and 8773.4, endorsed with a statement of his or her examination, and filed with the county surveyor or returned to the submitting party within 20 working days after receipt.

(b) In the event the submitted ''corner record'' fails to comply with the examination criteria of subdivision (a), the county surveyor or engineer shall return it to the person who submitted it together with a written statement of the changes necessary to make it conform to the requirements of subdivision (a). The licensed land surveyor or registered civil engineer submitting the corner record may then make the changes in compliance with subdivision (a) and resubmit the corner record for filing. The county surveyor or engineer shall file the corner record within 10 working days after receipt of the resubmission.

(c) If the matters appearing on the corner record cannot be agreed upon by the licensed land surveyor or the registered civil engineer and the county surveyor within 10 working days after the licensed land surveyor or registered civil engineer resubmits and requests the corner record be filed without further change, an explanation of the differences shall be noted on the corner record and it shall be submitted to and filed by the county surveyor. When the county surveyor places an explanatory note on a corner record, the county surveyor shall transmit a copy of the filed corner record within 10 working days of the filing to the licensed land surveyor or registered civil engineer who submitted the corner record.

(d) The corner record filed with the county surveyor of any county shall be securely fastened by him or her into a suitable book provided for that purpose.

(e) A charge for examining, indexing, and filing the corner record may be collected by the county surveyor, not to exceed the amount required for the recording of a deed.

(f) If the preparer of the corner record provides a postage-paid, self-addressed envelope or postcard with the filing of the corner record,

the county surveyor shall provide the preparer of the corner record with the filing data within 20 days of final filing. For the purposes of this subdivision, ''filing data'' includes the date, book or volume, and the page at which the corner record is filed by the county surveyor. This subdivision shall not apply to a county surveyor's office that maintains an electronic data base of filed corner records that is accessible to the public by reference to the preparer's license number.

SEC. 6. Section 66466 of the Government Code is amended to read:

66466. (a) The county recorder shall have not more than 10 days within which to examine a final or parcel map and either accept or reject it for filing.

(b) If the county recorder rejects a final or parcel map for filing, the county recorder shall, within 10 days thereafter, mail notice to the subdivider and the city engineer if the map is within a city, or the county surveyor if the map is within the unincorporated area, that the map has been rejected for filing, giving the reasons therefor, and that the map is being returned to the city clerk if the map is within a city, or to the clerk of the board if the map is within the unincorporated area, for action by the legislative body. Upon receipt of the map, the clerk shall place the map on the agenda of the next regular meeting of the legislative body and the legislative body shall, within 15 days thereafter, rescind its approval of the map and return the map to the subdivider unless the subdivider presents evidence that the basis for the rejection by the county recorder has been removed. The subdivider may consent to a continuance of the matter; however, the prior approval of the legislative body shall be deemed rescinded during any period of continuance. If a map is returned to the county recorder, the county recorder shall have a new 10-day period to examine the map and either accept or reject it for filing.

(c) If the county recorder accepts the map for filing, the acceptance shall be certified on the face thereof. The map shall be securely fastened in a book of subdivision maps, in a book of parcel maps, or in a book of cities and towns which shall be kept for that purpose, or in any other manner as will assure that the maps will be kept together. The map shall become a part of the official records of the county recorder upon its acceptance by the county recorder for filing. If the preparer of the map provides a postage-paid, self-addressed envelope or postcard with the filing of the map, the county recorder shall provide the preparer of the map with the filing data within 10 days of the filing of the map. For the purposes of this subdivision, ''filing data'' includes the date, book or volume, and the page at which the map is filed by the county recorder.

(d) The fee for filing and indexing the map is as prescribed in Section 27372 of the Government Code.

(e) The original map shall be stored for safekeeping in a reproducible condition. The county recorder may maintain for public reference a set

of counter maps that are prints of the original maps and produce the original maps for comparison upon demand.

(f) Upon the filing of any map, including amended maps and certificates of correction for recordation pursuant to this section or any record of survey pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code), the surveyor or engineer who prepared the document shall transmit a copy of the document, including all recording information, to the county surveyor, who shall maintain an index, by geographic location, of the documents. The county surveyor may charge a fee not to exceed the fee charged for recording the document, for purposes of financing the costs of maintaining the index of the documents.

The requirements of this subdivision shall not apply to any county that requires a document filed pursuant to this section to be transmitted to the county surveyor and requires that official to maintain an index of those documents.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 8761 of the Business and Professions Code proposed by both this bill and SB 1863. 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 8761 of the Business and Professions Code, and (3) this bill is enacted after SB 1863, in which case Section 2 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 8771 of the Business and Professions Code proposed by both this bill and SB 1863. 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 8771 of the Business and Professions Code, and (3) this bill is enacted after SB 1863, in which case Section 4 of this bill shall not become operative.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 679

An act to amend Section 1793.22 of the Civil Code, relating to warranties.

[Approved by Governor September 24, 2000. Filed with
Secretary of State September 26, 2000.]

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

SECTION 1. Section 1793.22 of the Civil Code is amended to read:

1793.22. (a) This section shall be known and may be cited as the Tanner Consumer Protection Act.

(b) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within 18 months from delivery to the buyer or 18,000 miles on the odometer of the vehicle, whichever occurs first, one or more of the following occurs:

(1) The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven and the nonconformity has been subject to repair two or more times by the manufacturer or its agents, and the buyer or lessee has at least once directly notified the manufacturer of the need for the repair of the nonconformity.

(2) The same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity.

(3) The vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to paragraphs (1) and (2) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this section and that of subdivision (d) of Section 1793.2, including the requirement that the buyer must notify the manufacturer directly pursuant to paragraphs (1) and (2). The notification, if required, shall be sent to the address, if any, specified clearly and conspicuously by the manufacturer in the warranty or owner's manual. This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action, including an action in small claims court, or other formal or informal proceeding.

(c) If a qualified third-party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of that qualified third-party dispute resolution process with a description of its operation and effect, the presumption in subdivision (b) may not be

asserted by the buyer until after the buyer has initially resorted to the qualified third-party dispute resolution process as required in subdivision (d). Notification of the availability of the qualified third-party dispute resolution process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third-party dispute resolution process does not exist, or if the buyer is dissatisfied with that third-party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of the qualified third-party dispute resolution process decision after the decision is accepted by the buyer, the buyer may assert the presumption provided in subdivision (b) in an action to enforce the buyer's rights under subdivision (d) of Section 1793.2. The findings and decision of a qualified third-party dispute resolution process shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third-party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms if the decision is accepted by the buyer, whichever occurs later.

(d) A qualified third-party dispute resolution process shall be one that does all of the following:

(1) Complies with the minimum requirements of the Federal Trade Commission for informal dispute settlement procedures as set forth in Part 703 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1987.

(2) Renders decisions which are binding on the manufacturer if the buyer elects to accept the decision.

(3) Prescribes a reasonable time, not to exceed 30 days after the decision is accepted by the buyer, within which the manufacturer or its agent must fulfill the terms of its decisions.

(4) Provides arbitrators who are assigned to decide disputes with copies of, and instruction in, the provisions of the Federal Trade Commission's regulations in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, and this chapter.

(5) Requires the manufacturer, when the process orders, under the terms of this chapter, either that the nonconforming motor vehicle be replaced if the buyer consents to this remedy or that restitution be made to the buyer, to replace the motor vehicle or make restitution in accordance with paragraph (2) of subdivision (d) of Section 1793.2.

(6) Provides, at the request of the arbitrator or a majority of the arbitration panel, for an inspection and written report on the condition

of a nonconforming motor vehicle, at no cost to the buyer, by an automobile expert who is independent of the manufacturer.

(7) Takes into account, in rendering decisions, all legal and equitable factors, including, but not limited to, the written warranty, the rights and remedies conferred in regulations of the Federal Trade Commission contained in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, this chapter, and any other equitable considerations appropriate in the circumstances. Nothing in this chapter requires that, to be certified as a qualified third-party dispute resolution process pursuant to this section, decisions of the process must consider or provide remedies in the form of awards of punitive damages or multiple damages, under subdivision (c) of Section 1794, or of attorneys' fees under subdivision (d) of Section 1794, or of consequential damages other than as provided in subdivisions (a) and (b) of Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(8) Requires that no arbitrator deciding a dispute may be a party to the dispute and that no other person, including an employee, agent, or dealer for the manufacturer, may be allowed to participate substantively in the merits of any dispute with the arbitrator unless the buyer is allowed to participate also. Nothing in this subdivision prohibits any member of an arbitration board from deciding a dispute.

(9) Obtains and maintains certification by the Department of Consumer Affairs pursuant to Chapter 9 (commencing with Section 472) of Division 1 of the Business and Professions Code.

(e) For the purposes of subdivision (d) of Section 1793.2 and this section, the following terms have the following meanings:

(1) ''Nonconformity'' means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.

(2) ''New motor vehicle'' means a new motor vehicle that is bought or used primarily for personal, family, or household purposes. ''New motor vehicle'' also means a new motor vehicle with a gross vehicle weight under 10,000 pounds that is bought or used primarily for business purposes by a person, including a partnership, limited liability company, corporation, association, or any other legal entity, to which not more than five motor vehicles are registered in this state. ''New motor vehicle'' includes the chassis, chassis cab, and that portion of a motor home devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a ''demonstrator'' or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because

it is to be operated or used exclusively off the highways. A demonstrator is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(3) ''Motor home'' means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(f) (1) Except as provided in paragraph (2), no person shall sell, either at wholesale or retail, lease, or transfer a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of subdivision (d) of Section 1793.2 or a similar statute of any other state, unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed to the prospective buyer, lessee, or transferee, the nonconformity is corrected, and the manufacturer warrants to the new buyer, lessee, or transferee in writing for a period of one year that the motor vehicle is free of that nonconformity.

(2) Except for the requirement that the nature of the nonconformity be disclosed to the transferee, paragraph (1) does not apply to the transfer of a motor vehicle to an educational institution if the purpose of the transfer is to make the motor vehicle available for use in automotive repair courses.

CHAPTER 680

An act to amend, repeal, and add Section 827 of the Civil Code, relating to landlord-tenant.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. It is the intent of the Legislature to respond to tight rental market conditions by providing tenants with longer notice when served with a rent increase of more than 10 percent in a 12-month period and providing owners with an easier method of service for notices of rent increases. The longer notice prescribed in this act provides tenants with additional time to respond to rent increases by, for example, augmenting their income with an additional job, finding a roommate, or relocating. The longer notice is not intended to constitute rent control, nor is it a

statement of public policy regarding acceptable or unacceptable levels of rent increases.

SEC. 2. Section 827 of the Civil Code is amended to read:

827. (a) Except as provided in subdivision (b), in all leases of lands or tenements, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may, upon giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, change the terms of the lease to take effect, as to tenancies for less than one month, upon the expiration of a period at least as long as the term of the hiring itself, and, as to tenancies from month to month, to take effect at the expiration of not less than 30 days, but if that change takes effect within a rental term, the rent accruing from the first day of the term to the date of that change shall be computed at the rental rate which obtained immediately prior to that change; provided, however, that it shall be competent for the parties to provide by an agreement in writing that a notice changing the terms thereof may be given at any time not less than seven days before the expiration of a term, to be effective upon the expiration of the term.

The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rents, and conditions specified in the notice, if the tenant shall continue to hold the premises after the notice takes effect.

(b) (1) In all leases of a residential dwelling, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may increase the rent provided in the lease or rental agreement, upon giving written notice to the tenant, as follows, by either of the following procedures:

(A) By delivering a copy to the tenant personally.

(B) By serving a copy by mail under the procedures prescribed in Section 1013 of the Code of Civil Procedure.

(2) If the proposed rent increase for that tenant is 10 percent or less of the rental amount charged to that tenant at any time during the 12 months prior to the effective date of the increase, either in and of itself or when combined with any other rent increases for the 12 months prior to the effective date of the increase, the notice shall be delivered at least 30 days prior to the effective date of the increase, and subject to Section 1013 of the Code of Civil Procedure if served by mail.

(3) For an increase in rent greater than the amount described in paragraph (2), the minimum notice period required pursuant to that paragraph shall be increased by an additional 30 days, and subject to Section 1013 of the Code of Civil Procedure if served by mail.

(c) If a state or federal statute, state or federal regulation, recorded regulatory agreement, or contract provides for a longer period of notice regarding a rent increase than that provided in subdivision (a) or (b), the

personal service or mailing of the notice shall be in accordance with the longer period.

(d) This section shall be operative only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2006, deletes or extends that date.

SEC. 3. Section 827 is added to the Civil Code, to read:

827. (a) In all leases of lands or tenements, or of any interest therein, from week to week, month to month, or other period less than a month, the landlord may, upon giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, change the terms of the lease to take effect, as to tenancies for less than one month, upon the expiration of a period at least as long as the term of the hiring itself, and, as to tenancies from month to month, to take effect at the expiration of not less than 30 days, but if that change takes effect within a rental term, the rent accruing from the first day of the term to the date of that change shall be computed at the rental rate which was obtained immediately prior to that change; provided, however, that it shall be competent for the parties to provide by an agreement in writing that a notice changing the terms thereof may be given at any time not less than seven days before the expiration of a term, to be effective upon the expiration of the term.

The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rents, and conditions specified in the notice, if the tenant shall continue to hold the premises after the notice takes effect.

(b) This section shall become operative on January 1, 2006.

CHAPTER 681

An act to add Sections 2242.1 and 4067 to the Business and Professions Code, relating to medicine, and making an appropriation therefor.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 2242.1 is added to the Business and Professions Code, to read:

2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for

delivery to any person in this state, without a good faith prior examination and medical indication therefor, except as authorized by Section 2242.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242.

SEC. 2. Section 4067 is added to the Business and Professions Code, to read:

4067. (a) No person or entity shall dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state without a prescription issued pursuant to a good faith prior examination if the person or entity either knew or reasonably should have known that the prescription was not issued pursuant to a good faith prior examination, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the California Code of Regulations.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Pharmacy Board Contingent Fund.

(e) Nothing in this section shall be construed to permit the unlicensed practice of pharmacy, or to limit the authority of the board to enforce any other provision of this chapter.

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

CHAPTER 682

An act to add Section 18901.8 to the Welfare and Institutions Code, relating to food stamps.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 18901.8 is added to the Welfare and Institutions Code, to read:

18901.8. (a) To the extent permitted by federal law, and with receipt of necessary federal approvals, the State Department of Social Services, in conjunction with affected stakeholder groups, shall develop and implement, if otherwise feasible, a simplified and shorter application form for nonassistance food stamp cases. The contents of this simpler form shall be evaluated for use in multiprogram application forms for the Food Stamp, Medi-Cal, and CalWORKs programs. The department shall seek any federal approvals necessary for implementation of the form.

(b) The department shall not require any county to implement use of the form described in subdivision (a) until the county has been allowed sufficient time to reprogram its automated systems for the purpose of implementing the form.

(c) The department shall provide information on implementation, including a simplified form, to the appropriate legislative committees on or before July 1, 2001.

CHAPTER 683

An act to amend Sections 7583.2, 7583.9, and 7587.8 of, to amend and repeal Section 7583.11 of, and to add Section 7587.15 to, the Business and Professions Code, relating to private patrol operators.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 7583.2 of the Business and Professions Code is amended to read:

7583.2. No person licensed as a private patrol operator shall do any of the following:

(a) Fail to properly maintain an accurate and current record of all firearms or other deadly weapons that are in the possession of the licensee or of any employee while on duty. Within seven days after a licensee or his or her employees discover that a deadly weapon which has been recorded as being in his or her possession has been misplaced, lost, or stolen, or in any other way missing, the licensee or his or her manager shall mail or deliver to any local law enforcement agency who has jurisdiction, a written report concerning the incident. The report shall describe fully the circumstances surrounding the incident, any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted.

(b) Fail to properly maintain an accurate and current record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated.

(c) Fail to properly maintain an accurate and current record of proof of completion by each employee of the licensee of the course of training in the exercise of the power to arrest as required by Section 7583.5.

(d) Fail to certify an employee's completion of the course of training in the exercise of the power to arrest prior to placing the employee at a duty station.

(e) Fail to certify proof of current and valid registration for each employee who is subject to registration or fail to comply with the provisions of Section 7583.11 if employing an individual who does not possess a current and valid registration from the bureau.

(f) Fail to certify within three business days after assigning an employee to work with a temporary registration card that the employee has submitted fingerprint cards as required by Section 7583.9.

(g) Permit any employee to carry a firearm or other deadly weapon without first ascertaining that the employee is proficient in the use of each weapon to be carried. With respect to firearms, evidence of proficiency shall include a certificate from a firearm training facility approved by the director certifying that the employee is proficient in the use of that specified caliber of firearm and a current and valid firearm qualification permit issued by the department. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility approved by the director certifying that the employee is proficient in the use of that particular deadly weapon.

(h) Fail to deliver to the director a written report describing fully the circumstances surrounding the discharge of any firearm, or physical altercation with a member of the public while on duty, by a licensee or any officer, partner, or employee of a licensee while acting within the course and scope of his or her employment within seven days after the incident. For the purposes of this subdivision, a report shall be required only for physical altercations that result in any of the following: (1) the arrest of a security guard, (2) the filing of a police report by a member of the public, (3) injury on the part of a member of the public that requires medical attention, or (4) the discharge, suspension, or reprimand of a security guard by his or her employer. The report shall include, but not be limited to, a description of any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted. Any report may be investigated by the director to determine if any disciplinary action is necessary.

(i) Fail to notify the bureau in writing and within 30 days that a manager previously qualified pursuant to this chapter is no longer connected with the licensee.

SEC. 2. Section 7583.9 of the Business and Professions Code is amended to read:

7583.9. (a) Upon accepting employment by a private patrol operator, any employee who performs the function of a security guard or security patrolperson who is not currently registered with the bureau, shall complete an application for registration on a form as prescribed by

the director, and obtain two classifiable fingerprint cards for submission to the Department of Justice. The Department of Justice shall forward one classifiable fingerprint card to the Federal Bureau of Investigation for purposes of a background check. The applicant shall submit the application and registration fee to the bureau on or before the same business day that he or she is assigned to work as a security guard or security patrolperson performing any of the functions set forth in subdivision (a) of Section 7582.1. If the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, the applicant may submit the application and registration fee to the bureau on the first business day immediately following the Saturday, Sunday, or federal holiday. The applicant shall submit the fingerprints to the bureau within three business days after being assigned to work with a temporary registration card.

(b) If a private patrol operator pays the application fee on behalf of the applicant, nothing in this section shall preclude the private patrol operator from withholding the amount of the fee from the applicant's compensation.

(c) The licensee shall maintain supplies of applications and fingerprint cards that shall be provided by the bureau upon request.

(d) In lieu of classifiable fingerprint cards provided for in this section, the bureau may authorize applicants to submit their fingerprints into an electronic fingerprinting system administered by the Department of Justice. Applicants who submit their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The enforcement agency responsible for operating the terminal may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(e) Upon receipt of an applicant's electronic fingerprints as provided in this section, the Department of Justice shall determine whether the applicant has been convicted of any crime and forward the information to the bureau.

(f) The requirement of submission of fingerprint cards to the Federal Bureau of Investigation shall not apply to currently employed, full-time peace officers holding peace officer status under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or to level I or level II reserve officers as described in paragraphs (1) and (2) of subdivision (a) of Section 832.6 of the Penal Code.

(g) In addition to the amount authorized pursuant to Section 7570.1, the bureau may impose an additional fee not to exceed three dollars ($3) for processing classifiable fingerprint cards submitted by applicants

excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(h) An employee shall, on the first day of employment, display to the client his or her registration card if it is feasible and practical to comply with this disclosure requirement. The employee shall thereafter display to the client his or her registration card upon the request of the client.

(i) ''Submit,'' as used in subdivision (a), means any of the following:

(1) To ensure that the application and registration fee have been received by the bureau on or before the business day that the employee is assigned to work.

(2) To ensure that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on or before the employee is assigned to work or have been deposited with a carrier performing overnight delivery services on or before the business day that the employee is assigned to work.

(3) To ensure, if the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on the first business day immediately following that Saturday, Sunday, or federal holiday or have been deposited with a carrier performing overnight delivery services on the first business day immediately following that Saturday, Sunday, or federal holiday.

SEC. 3. Section 7583.11 of the Business and Professions Code is amended to read:

7583.11. (a) Except as provided in subdivision (b), an employee of a licensee may be assigned to work with a temporary registration card that indicates completion of the course in the exercise of the power to arrest until the bureau issues a registration card or denies the application for registration. However, a licensee shall not assign an employee to work with a temporary registration card unless the licensee submits the employee's application and registration fee to the bureau on or before the same business day that the employee is assigned to work as a security guard or security patrolperson performing any of the functions set forth in subdivision (a) of Section 7582.1. If a licensee assigns an employee to work with a temporary registration card on a Saturday, Sunday, or on a federal holiday, the licensee may submit the employee's application and registration fee to the bureau on the first business day immediately following the Saturday, Sunday, or federal holiday. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days at any time when there is an abnormal delay in processing applications for prospective security guards. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.

(b) An employee who has been convicted of a crime prior to applying for a position as a security guard shall not be issued a temporary registration card and shall not be assigned to work as a security guard until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration as a security guard has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents. In no event shall the director, the department, the bureau, the chief, or the State of California be liable for any civil damages in the event of the issuance of a temporary registration if the applicant has falsified his or her application to conceal a prior criminal conviction.

(c) A temporary registration card issued pursuant to this section shall include the name, address, and license number of the private patrol operator employer or training facility that issued the temporary registration card.

(d) An employee shall, on the first day of employment, display to the client his or her registration card or temporary registration card, when it is feasible and practical to comply with this disclosure requirement. The employee shall thereafter display to the client his or her registration card or temporary registration card upon the request of the client.

(e) ''Submit'' as used in subdivision (a), means any of the following:

(1) To ensure that the application and registration fee have been received by the bureau on or before the business day that the employee is assigned to work.

(2) To ensure that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on or before the employee is assigned to work or have been deposited with a carrier performing overnight delivery services on or before the business day that the employee is assigned to work.

(3) To ensure, if the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on the first business day immediately following that Saturday, Sunday, or federal holiday or have been deposited with a carrier performing overnight delivery services on the first business day immediately following that Saturday, Sunday, or federal holiday.

(f) This section 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. 4. Section 7587.8 of the Business and Professions Code is amended to read:

7587.8. The director may assess fines for the following acts pursuant to Article 4 (commencing with Section 7583) only as follows:

(a) Violation of subdivisions (a), (b), and (c) of Section 7583.2; twenty-five dollars ($25) per violation.

(b) Violation of subdivisions (h) and (i) of Section 7583.2; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(c) Violation of subdivision (d) of Section 7583.2; one hundred dollars ($100) per violation.

(d) Violation of subdivision (g) of Section 7583.2; two hundred fifty dollars ($250) per violation.

(e) Violation of subdivision (f) of Section 7583.2; two thousand five hundred dollars ($2,500) per violation, notwithstanding any other provision of law.

SEC. 5. Section 7587.15 is added to the Business and Professions Code, to read:

7587.15. Notwithstanding any other provision of law, the director may assess a fine of up to five thousand dollars ($5,000) per violation against any licensee for a failure to comply with subdivision (e) of Section 7583.2 or Section 7583.11. In addition, the director may deny, suspend, or revoke a license issued under this chapter for a failure to comply with Section 7583.11.

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 684

An act to amend Section 13591.4 of the Penal Code, relating to peace officer training.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

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

SECTION 1. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) On or before August 1, 1993, the commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(b) The course of basic training for law enforcement officers shall, no later than August 1, 1993, include adequate instruction on racial and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of cultural awareness and diversity.

(c) For the purposes of this section, ''culturally diverse'' and ''cultural diversity'' include, but are not limited to, gender and sexual orientation issues. The Legislature finds and declares as follows:

(1) Racial profiling is a practice that presents a great danger to the fundamental principals of a democratic society. It is abhorrent and cannot be tolerated.

(2) Motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.

(3) It is the intent of the Legislature in enacting the changes to Section 13519.4 of the Penal Code made by the act that added this subdivision that more than additional training is required to address the pernicious practice of racial profiling and that enactment of this bill is in no way dispositive of the issue of how the state should deal with racial profiling.

(4) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of law enforcement officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(d) ''Racial profiling,'' for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

(e) A law enforcement officer shall not engage in racial profiling.

(f) Every law enforcement officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training. Training shall begin being offered no later than January 1, 2002. The curriculum shall be created by

the commission in collaboration with a five-person panel, appointed no later than March 1, 2001, as follows: the Governor shall appoint three members and one member each shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly. Each appointee shall be appointed from among prominent members of the following organizations:

(1) State Conference of the NAACP.
(2) Brotherhood Crusade.
(3) Mexican American Legal Defense and Education Fund.
(4) The League of United Latin American Citizens.
(5) American Civil Liberties Union.
(6) Anti-Defamation League.
(7) California NOW.
(8) Asian Pacific Bar of California.
(9) The Urban League.

(g) Members of the panel shall not be compensated, except for reasonable per diem expenses related to their work for panel purposes.

(h) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework and shall include and examine the patterns, practices, and protocols that make up racial profiling. This training shall prescribe patterns, practices, and protocols that prevent racial profiling. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling. The course of instruction shall include, but not be limited to, adequate consideration of each of the following subjects:

(1) Identification of key indices and perspectives that make up cultural differences among residents in a local community.

(2) Negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations.

(3) The history and the role of the civil rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers.

(5) Perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.

(i) Once the initial basic training is completed, each law enforcement officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial and cultural trends.

(j) The Legislative Analyst shall conduct a study of the data being voluntarily collected by those jurisdictions that have instituted a program of data collection with regard to racial profiling, including, but not limited to, the California Highway Patrol, the City of San Jose, and the City of San Diego, both to ascertain the incidence of racial profiling and whether data collection serves to address and prevent such practices, as well as to assess the value and efficacy of the training herein prescribed with respect to preventing local profiling. The Legislative Analyst may prescribe the manner in which the data is to be submitted and may request that police agencies collecting such data submit it in the requested manner. The Legislative Analyst shall provide to the Legislature a report and recommendations with regard to racial profiling by July 1, 2002.

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 685

An act to add Section 17155.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 17155.5 is added to the Revenue and Taxation Code, to read:

17155.5. Gross income does not include any amount received as reparation payments paid by the German Foundation known as Remembrance, Responsibility, and the Future, or any other source of humanitarian reparations made for purposes of redressing the injustice done to persons who were required to perform slave or forced labor during World War II.

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 686

An act to amend Section 5205.5 of the Vehicle Code, relating to transportation.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 5205.5 of the Vehicle Code is amended to read:

5205.5. (a) For the purposes of implementing Section 21655.9, beginning July 1, 2000, and through December 31, 2003, the department, in consultation with the Department of the California Highway Patrol, shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for actual costs incurred pursuant to this section, distinctive decals, labels, or other identifiers for vehicles that meet California's ultra-low emission vehicle (ULEV) standard for exhaust emissions and the federal ILEV evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations, in a manner that clearly distinguishes them from other vehicles.

(b) For the purposes of implementing Section 21655.9, beginning January 1, 2004, and through December 31, 2007, the department shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for actual costs incurred pursuant to this section, distinctive decals, labels, and other identifiers for vehicles that meet California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations, in a manner that clearly distinguishes them from other vehicles.

(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice, or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.

(d) The Governor may remove individual high-occupancy vehicle (HOV) lanes, or portions of those lanes, during periods of peak

congestion from the ILEV access provisions provided in subdivisions (a) and (b), following a finding by the Department of Transportation as follows:

(1) The lane, or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.

(2) The operation or projected operation of the vehicles described in subdivisions (a) and (b) in these lanes, or portions thereof, will significantly increase congestion.

The finding also shall demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles, further increasing vehicle occupancy, or adding additional capacity.

(e) For purposes of subdivisions (a) and (b), the Department of the California Highway Patrol shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which number shall be printed on, or affixed to, the vehicle registration.

(f) If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to any vehicle pursuant to Section 30101.8 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued by the department pursuant to subdivisions (a) and (b).

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. 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 687

An act to amend Sections 8855 and 53646 of the Government Code, relating to the California Debt and Investment Advisory Commission.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designee.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designee.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

(2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairperson and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization, sold and outstanding, and serve as a statistical clearinghouse for all state and local debt issues. This information shall be readily available upon request by any public official or any member of the public.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments, and undertake other activities conducive to the disclosure of investment practices and strategies for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(f) The city, county, or city and county investor of any public funds, no later than 60 days after the close of the second and fourth quarters of each calendar year, shall provide the quarterly reports required pursuant to Section 53646 and, no later than 60 days after the close of the quarter of each calendar year and 60 days after the subsequent amendment thereto, provide the statement of investment policy required pursuant to Section 53646, to the commission by mail, postage prepaid, or by any other method approved by the commission. The commission shall collect these reports to further its educational responsibilities as described under subdivision (e). Nothing in this section shall be construed to create additional oversight responsibility for the commission or any of its members. Sole responsibility for control, oversight, and accountability of local investment decisions shall remain with local officials. The commission shall not be considered to have any fiduciary duty with respect to any local agency income report received under this subdivision. In addition, the commission shall not have any legal liability with respect to these investments.

(g) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(h) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid. This subdivision shall also apply

to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans.

(i) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(j) The issuer of any new debt issue of state or local government, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, shall submit a report of final sale to the commission by mail, postage prepaid, or by any other method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. The commission may require information to be submitted in the report of final sale that it considers appropriate.

(k) The commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(*l*) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(m) All administrative and clerical assistance required by the commission shall be furnished by the office of the Treasurer.

(n) The commission, no later than May 1, 2006, shall report to the Legislature describing its activities since the inception of the local agency investment reporting program regarding the collection and maintenance of information on local agency investment practices and how the commission uses that information to fulfill its statutory goals.

SEC. 2. Section 53646 of the Government Code is amended to read:

53646. (a) (1) In the case of county government, the treasurer shall annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency shall annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b) (1) The treasurer or chief fiscal officer shall render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so

submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.

(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school

district or county office of education in individual accounts that are less than twenty-five thousand dollars ($25,000).

(g) Except as provided in subdivisions (h) and (i), each city, county, or city and county shall submit copies of its second and fourth quarter reports to the California Debt and Investment Advisory Commission within 60 days after the close of the second and fourth quarters of each calendar year. Any city, county, or city and county not required to submit a report pursuant to subdivision (h) or (i) shall file with the commission a certification within 60 days of the end of the second and fourth quarters of the calendar year stating the distribution and amount of its investment portfolio and that it is therefore not subject to this reporting requirement. This subdivision shall become inoperative on January 1, 2007.

(h) A city shall not be required to submit a quarterly report to the commission if, during the entire reporting period, the city has maintained 100 percent of its investment portfolio in (1) the treasury of the county in which it is located for investment by the county treasurer pursuant to Section 53684, (2) the Local Agency Investment Fund created by Section 16429.1, (3) National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, or (4) in any combination of these.

(i) A county or city and county shall not be required to submit a quarterly report to the commission if, during the entire reporting period, the county has maintained 100 percent of its investment portfolio in (1) the Local Agency Investment Fund created by Section 16429.1, (2) National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, or (3) in any combination of these.

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 688

An act to amend Section 1788.17 of the Civil Code, to amend Sections 403, 404, 527, 527.6, 527.8, 871.3, 1277, 1731, 1738, 2024, 2031, and 2094 of, to repeal Sections 2095, 2096, and 2097 of, the Code of Civil Procedure, to amend Sections 66909.2 and 66909.5 of the Government Code, to amend Section 14029 of the Penal Code, to amend Section 1310 of the Probate Code, and to amend Section 2805 of the Vehicle Code, relating to civil procedure.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 1788.17 of the Civil Code is amended to read:

1788.17. Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code. However, subsection (11) of Section 1692e and Section 1692g shall not apply to any person specified in paragraphs (A) and (B) of subsection (6) of Section 1692a of Title 15 of the United States Code or that person's principal. The references to federal codes in this section refer to those codes as they read January 1, 2001.

SEC. 2. Section 403 of the Code of Civil Procedure is amended to read:

403. A judge may, on motion, transfer an action or actions from another court to that judge's court for coordination with an action involving a common question of fact or law within the meaning of Section 404. The motion shall be supported by a declaration stating facts showing that the actions meet the standards specified in Section 404.1, are not complex as defined by the Judicial Council and that the moving party has made a good faith effort to obtain agreement to the transfer from all parties to each action. Notice of the motion shall be served on all parties to each action and on each court in which an action is pending. Any party to that action may file papers opposing the motion within the time permitted by rule of the Judicial Council. The court to which a case is transferred may order the cases consolidated for trial pursuant to Section 1048 without any further motion or hearing.

If the cases are pending in different courts of the same county, the judge who grants the motion to transfer may also order the cases consolidated for trial in the receiving court.

The Judicial Council may adopt rules to implement this section, including rules prescribing procedures for preventing duplicative or conflicting transfer orders issued by different courts.

SEC. 3. Section 404 of the Code of Civil Procedure is amended to read:

404. When civil actions sharing a common question of fact or law are pending in different courts, a petition for coordination may be submitted to the Chairperson of the Judicial Council, by the presiding judge of any such court, or by any party to one of the actions after obtaining permission from the presiding judge, or by all of the parties plaintiff or defendant in any such action. A petition for coordination, or a motion for permission to submit a petition, shall be supported by a declaration stating facts showing that the actions are complex, as defined by the Judicial Council and that the actions meet the standards specified in Section 404.1. On receipt of a petition for coordination, the Chairperson of the Judicial Council may assign a judge to determine whether the actions are complex, and if so, whether coordination of the actions is appropriate, or the Chairperson of the Judicial Council may authorize the presiding judge of a court to assign the matter to judicial officers of the court to make the determination in the same manner as assignments are made in other civil cases.

Notwithstanding any other provision of law, when civil actions sharing a common question of fact or law are pending in a superior court and in a municipal court of the same county, the superior court may, on the motion of any party supported by an affidavit stating facts showing that the actions meet the standards specified in Section 404.1, order transfer from the municipal court and consolidation of the actions in the superior court.

SEC. 4. Section 527 of the Code of Civil Procedure is amended to read:

527. (a) A preliminary injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. No preliminary injunction shall be granted without notice to the opposing party.

(b) A temporary restraining order or a preliminary injunction, or both, may be granted in a class action, in which one or more of the parties sues or defends for the benefit of numerous parties upon the same grounds as in other actions, whether or not the class has been certified.

(c) No temporary restraining order shall be granted without notice to the opposing party, unless both of the following requirements are satisfied:

(1) It appears from facts shown by affidavit or by the verified complaint that great or irreparable injury will result to the applicant before the matter can be heard on notice.

(2) The applicant or the applicant's attorney certifies one of the following to the court under oath:

(A) That within a reasonable time prior to the application the applicant informed the opposing party or the opposing party's attorney at what time and where the application would be made.

(B) That the applicant in good faith attempted but was unable to inform the opposing party and the opposing party's attorney, specifying the efforts made to contact them.

(C) That for reasons specified the applicant should not be required to so inform the opposing party or the opposing party's attorney.

(d) In case a temporary restraining order is granted without notice in the contingency specified in subdivision (c):

(1) The matter shall be made returnable on an order requiring cause to be shown why a preliminary injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than 15 days or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued.

(2) The party who obtained the temporary restraining order shall, within five days from the date the temporary restraining order is issued or two days prior to the hearing, whichever is earlier, serve on the opposing party a copy of the complaint if not previously served, the order to show cause stating the date, time, and place of the hearing, any affidavits to be used in the application, and a copy of the points and authorities in support of the application. The court may for good cause, on motion of the applicant or on its own motion, shorten the time required by this paragraph for service on the opposing party.

(3) When the matter first comes up for hearing, if the party who obtained the temporary restraining order is not ready to proceed, or if the party has failed to effect service as required by paragraph (2), the court shall dissolve the temporary restraining order.

(4) The opposing party is entitled to one continuance for a reasonable period of not less than 15 days or any shorter period requested by the opposing party, to enable the opposing party to meet the application for a preliminary injunction. If the opposing party obtains a continuance under this paragraph, the temporary restraining order shall remain in effect until the date of the continued hearing.

(5) Upon the filing of an affidavit by the applicant that the opposing party could not be served within the time required by paragraph (2), the court may reissue any temporary restraining order previously issued. The reissued order shall be made returnable as provided by paragraph

(1), with the time for hearing measured from the date of reissuance. No fee shall be charged for reissuing the order.

(e) The opposing party may, in response to an order to show cause, present affidavits relating to the granting of the preliminary injunction, and if the affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof. On the day the order is made returnable, the hearing shall take precedence over all other matters on the calendar of the day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

(f) Notwithstanding failure to satisfy the time requirements of this section, the court may nonetheless hear the order to show cause why a preliminary injunction should not be granted if the moving and supporting papers are served within the time required by Section 1005 and one of the following conditions is satisfied:

(1) The order to show cause is issued without a temporary restraining order.

(2) The order to show cause is issued with a temporary restraining order, but is either not set for hearing within the time required by paragraph (1) of subdivision (d), or the party who obtained the temporary restraining order fails to effect service within the time required by paragraph (2) of subdivision (d).

(g) This section does not apply to an order issued under the Family Code.

(h) As used in this section:

(1) ''Complaint'' means a complaint or a cross-complaint.

(2) ''Court'' means the court in which the action is pending.

SEC. 5. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, ''harassment'' is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.

As used in this subdivision:

(1) ''Unlawful violence'' is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) ''Credible threat of violence'' is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) ''Course of conduct'' is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of ''course of conduct.''

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. A temporary restraining order may be issued with or without notice upon an affidavit that, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. In the discretion of the court, and on a showing of good cause, a temporary restraining order issued under this section may include other named family or household members who reside with the plaintiff. A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, or, if the court extends the time for hearing under subdivision (d), not to exceed 22 days, unless otherwise modified or terminated by the court.

(d) Within 15 days, or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(f) In a proceeding under this section where there are allegations or threats of domestic violence, a support person may accompany a party in court and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The support person is not present as a legal adviser and shall not give legal advice. The support person shall assist the person who alleges he or she is a victim of domestic violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person who alleges he or she is a victim of domestic violence and the other party must be present in close proximity. Nothing in this subdivision precludes the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(g) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(h) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

An order issued under this section shall, on request of the plaintiff, be served on the defendant, whether or not the defendant has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The plaintiff shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected

person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(i) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a plaintiff's right to use other existing civil remedies.

(*l*) The Judicial Council shall promulgate forms and instructions therefor, and rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(o) There shall be no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoke in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

SEC. 6. Section 527.8 of the Code of Civil Procedure is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual.

(b) For the purposes of this section:

(1) ''Unlawful violence'' is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) ''Credible threat of violence'' is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) ''Course of conduct'' is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(c) Nothing in this section shall be construed to permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) For purposes of this section, the terms ''employer'' and ''employee'' mean persons defined in Section 350 of the Labor Code. The term ''employer'' also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. The term ''employee'' also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, the term ''employee'' also includes a volunteer or independent contractor who performs services for the employer at the employer's worksite.

(e) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the plaintiff also files an affidavit that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant, and that great or irreparable harm would result to an

employee. In the discretion of the court, and on a showing of good cause, a temporary restraining order issued under this section may include other named family or household members who reside with the employee.

A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(f) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the defendant is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the defendant. If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(g) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(h) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(i) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(j) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) Nothing in this section shall be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(*l*) The Judicial Council shall develop forms, instructions, and rules for scheduling of hearings and other procedures established pursuant to this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(o) There shall be no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and that seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

SEC. 7. Section 871.3 of the Code of Civil Procedure is amended to read:

871.3. (a) An action for relief under this chapter shall be treated as an unlimited civil case, regardless of the amount in controversy and regardless of whether a defendant cross-complains for relief under this chapter. Any other case in which a defendant cross-complains for relief under this chapter shall be treated as a limited civil case if the cross-complaint is defensive and the case otherwise satisfies the amount in controversy and other requirements of Section 85.

(b) In every case, the burden is on the good faith improver to establish that the good faith improver is entitled to relief under this chapter, and the degree of negligence of the good faith improver should be taken into account by the court in determining whether the improver acted in good faith and in determining the relief, if any, that is consistent with

substantial justice to the parties under the circumstances of the particular case.

SEC. 8. 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 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) An action for a change of name for a witness participating in the state Witness Protection Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(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.

SEC. 8.2. 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, except as provided in subdivisions (b) and (c), 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) An action for a change of name for a witness participating in the state Witness Protection Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) 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.

(e) 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. 8.3. 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 subdivisions (b) and (c), 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) An action for a change of name for a witness participating in the state Witness Protection Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) 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.

(e) 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. 9. Section 1731 of the Code of Civil Procedure is amended to read:

1731. As used in this title:

(a) ''Alternative dispute resolution process'' or ''ADR process'' means a process in which parties meet with a third party neutral to assist them in resolving their dispute outside of formal litigation.

(b) ''General civil case'' means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act; freedom from parental custody and control proceedings; and adoption proceedings), juvenile court proceedings, small claims, and other civil petitions, as defined by the Judicial Council on the effective date of this section, including petitions for a writ of mandate or prohibition, temporary restraining orders, harassment restraining orders, domestic violence restraining orders, writs of possession, appointment of a receiver, release of property from lien, and change of name.

(c) ''Mediation'' means a process in which a neutral person or persons facilitate communication between disputants to assist them in reaching a mutually acceptable agreement.

SEC. 10. Section 1738 of the Code of Civil Procedure is amended to read:

1738. (a) All statements made by the parties during a mediation under this title shall be subject to Sections 703.5 and 1152, and Chapter 2 (commencing with Section 1115) of Division 9 of, the Evidence Code.

(b) Any reference to a mediation or the statement of nonagreement filed pursuant to Section 1739 during any subsequent trial shall constitute an irregularity in the proceedings of the trial for the purposes of Section 657.

SEC. 11. Section 2024 of the Code of Civil Procedure is amended to read:

2024. (a) Except as otherwise provided in this section, any party shall be entitled as a matter of right to complete discovery proceedings on or before the 30th day, and to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action. If either of these dates falls on a Saturday, Sunday, or holiday as specified in Section 10, the last day shall be the next successive court day. As used in this section, discovery is considered completed on the day a response is due or on the day a deposition begins. Except as provided in subdivision (e), a continuance or postponement of the trial date does not operate to reopen discovery proceedings.

(b) The time limit on completing discovery in an action to be arbitrated under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 is subject to Judicial Council Rule. After an award in a case ordered to judicial arbitration, completion of discovery is limited by Section 1141.24.

(c) This section does not apply to (1) summary proceedings for obtaining possession of real property governed by Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, in which discovery shall be completed on or before the fifth day before the date set for trial except as provided in subdivisions (e) and (f), or (2) eminent domain proceedings governed by Title 7 (commencing with Section 1230.010) of Part 3.

(d) Any party shall be entitled as a matter of right to complete discovery proceedings pertaining to a witness identified under Section 2034 on or before the 15th day, and to have motions concerning that discovery heard on or before the 10th day, before the date initially set for the trial of the action.

(e) On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen discovery after a new trial date has been set. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:

(1) The necessity and the reasons for the discovery.

(2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.

(3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.

(4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to extend or to reopen discovery, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) Parties to the action may, with the consent of any party affected by it, enter into an agreement to extend the time for the completion of discovery proceedings or for the hearing of motions concerning discovery, or to reopen discovery after a new date for trial of the action has been set. This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date. In no event shall this

agreement require a court to grant a continuance or postponement of the trial of the action.

(g) When the last day to perform or complete any act provided for in this article falls on a Saturday, Sunday, or holiday as specified in Section 10, the time limit is extended until the next day that is not a Saturday, Sunday, or holiday.

SEC. 12. Section 2031 of the Code of Civil Procedure is amended to read:

2031. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.

(1) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made.

(2) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(3) A party may demand that any other party allow the party making the demand, or someone acting on that party's behalf, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.

(b) A defendant may make a demand for inspection without leave of court at any time. A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or in unlawful detainer actions within five days after service of the summons on or appearance by, the party to whom the demand is directed, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

(c) A party demanding an inspection shall number each set of demands consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the demanding party, the set number, and the identity of the responding party. Each demand in a set shall be separately set forth, identified by number or letter, and shall do all of the following:

(1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(2) Specify a reasonable time for the inspection that is at least 30 days after service of the demand, or in unlawful detainer actions at least five days after service of the demand, unless the court for good cause shown has granted leave to specify an earlier date.

(3) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(4) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will permanently alter or destroy the item involved.

(d) The party demanding an inspection shall serve a copy of the inspection demand on the party to whom it is directed and on all other parties who have appeared in the action.

(e) In addition to the inspection demands permitted by this section, a party may propound a supplemental demand to inspect any later acquired or discovered documents, tangible things, or land or other property that are in the possession, custody, or control of the party on whom the demand is made (1) twice prior to the initial setting of a trial date, and (2) subject to the time limits on discovery proceedings and motions provided in Section 2024, once after the initial setting of a trial date. However, on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental demands for inspection.

(f) When an inspection of documents, tangible things or places has been demanded, the party to whom the demand has been directed, and any other party or affected person or organization, may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That all or some of the items or categories of items in the inspection demand need not be produced or made available at all.

(2) That the time specified in subdivision (i) to respond to the set of inspection demands, or to a particular item or category in the set, be extended.

(3) That the place of production be other than that specified in the inspection demand.

(4) That the inspection be made only on specified terms and conditions.

(5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.

(6) That the items produced be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(g) The party to whom an inspection demand has been directed shall respond separately to each item or category of item by a statement that the party will comply with the particular demand for inspection and any related activities, a representation that the party lacks the ability to comply with the demand for inspection of a particular item or category of item, or an objection to the particular demand.

In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the demanding party. Each statement of compliance, each representation, and each objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

(1) A statement that the party to whom an inspection demand has been directed will comply with the particular demand shall state that the production, inspection, and related activity demanded will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

Any documents demanded shall either be produced as they are kept in the usual course of business, or be organized and labeled to correspond with the categories in the demand. If necessary, the responding party at the reasonable expense of the demanding party shall, through detection devices, translate any data compilations included in the demand into reasonably usable form.

(2) A representation of inability to comply with the particular demand for inspection shall affirm that a diligent search and a reasonable inquiry

has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.

(3) If only part of an item or category of item in an inspection demand is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category. If the responding party objects to the demand for inspection of an item or category of item, the response shall (A) identify with particularity any document, tangible thing, or land falling within any category of item in the demand to which an objection is being made, and (B) set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Section 2018, that claim shall be expressly asserted.

(h) The party to whom the demand for inspection is directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for a party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any responses that contain an objection.

(i) Within 30 days after service of an inspection demand, or in unlawful detainer actions within five days of an inspection demand, the party to whom the demand is directed shall serve the original of the response to it on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response. In unlawful detainer actions, the party to whom the demand is directed shall have at least five days from the date of service of the demand to respond unless on motion of the party making the demand the court has shortened the time for the response.

(j) The party demanding an inspection and the responding party may agree to extend the time for service of a response to a set of inspection demands, or to particular items or categories of items in a set, to a date beyond that provided in subdivision (i). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any item or category of item in the demand to which the agreement applies in any manner specified in subdivision (g).

(k) The inspection demand and the response to it shall not be filed with the court. The party demanding an inspection shall retain both the original of the inspection demand, with the original proof of service affixed to it, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(*l*) If a party to whom an inspection demand has been directed fails to serve a timely response to it, that party waives any objection to the demand, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (g), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party making the demand may move for an order compelling response to the inspection demand. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey the order compelling a response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) If the party demanding an inspection, on receipt of a response to an inspection demand, deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, incomplete, or evasive, or (3) an objection in the response is without merit or too general, that party may move for an order compelling further response to the demand. This motion (A) shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand, and (B) shall be accompanied by a declaration

stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the inspection demand.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(n) If a party filing a response to a demand for inspection under subdivision (g) thereafter fails to permit the inspection in accordance with that party's statement of compliance, the party demanding the inspection may move for an order compelling compliance.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling inspection, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

SEC. 13. Section 2094 of the Code of Civil Procedure is amended to read:

2094. (a) An oath, affirmation, or declaration in an action or a proceeding, may be administered by obtaining an affirmative response to one of the following:

(1) ''You do solemnly state that the evidence you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth, so help you God.''

(2) ''You do solemnly state, under penalty of perjury, that the evidence that you shall give in this issue or matter shall be the truth, the whole truth, and nothing but the truth.''

(b) In the alternative to the forms prescribed in subdivision (a), the court may administer an oath, affirmation, or declaration in an action or a proceeding in a manner that is calculated to awaken the person's conscience and impress the person's mind with the duty to tell the truth. The court shall satisfy itself that the person testifying understands that his or her testimony is being given under penalty of perjury.

SEC. 14. Section 2095 of the Code of Civil Procedure is repealed.

SEC. 15. Section 2096 of the Code of Civil Procedure is repealed.

SEC. 16. Section 2097 of the Code of Civil Procedure is repealed.

SEC. 17. Section 66909.2 of the Government Code is amended to read:

66909.2. (a) The Legislature finds and declares that accomplishment of the goals and objectives of the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)) depends upon prompt and efficient acquisition of property within the Lake Tahoe region.

(b) The Legislature further finds and declares that the conservancy is a unique entity, that some lands acquired in furtherance of the goals and objectives of this title and the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)), though not wholly unimproved, are equivalent in character and uses to unimproved public lands coming within the purview of Section 831.2, and that, for the above reasons, the immunity provisions of Section 831.2 should be extended to provide an immunity from liability for injuries resulting from a natural condition of certain partially improved lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act and this title.

(c) It is the intent of the Legislature that the extension of Section 831.2 pursuant to this chapter apply only to lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act and this title and that this chapter does not affect the construction of Section 831.2, or justify a provision similar to this chapter, with respect to any other public property.

SEC. 18. Section 66909.5 of the Government Code is amended to read:

66909.5. (a) This chapter shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2006, deletes or extends that date.

(b) On or before January 1, 2006, the conservancy shall report to the Legislature, with respect to any property that is subject to the immunity provided by this chapter, both of the following:

(1) The nature and extent of any injury sustained by any person on that property since September 17, 1984.

(2) Any personal injury or wrongful death litigation brought by, on behalf of, or against, any public entity since September 17, 1984, arising from occurrences on that property.

SEC. 19. Section 14029 of the Penal Code is amended to read:

14029. All information relating to any witness participating in the program established pursuant to this title shall remain confidential and is 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) and, if a change of name has been approved by the program, the order to show cause is not subject to the publication requirement of Section 1277 of the Code of Civil Procedure.

SEC. 20. Section 1310 of the Probate Code is amended to read:

1310. (a) Except as provided in subdivisions (b), (c), (d), and (e), an appeal pursuant to Chapter 1 (commencing with Section 1300) stays the operation and effect of the judgment or order.

(b) Notwithstanding that an appeal is taken from the judgment or order, for the purpose of preventing injury or loss to a person or property, the trial court may direct the exercise of the powers of the fiduciary, or may appoint a temporary guardian or conservator of the person or estate, or both, or special administrator, to exercise the powers, from time to time, as if no appeal were pending. All acts of the fiduciary pursuant to the directions of the court made under this subdivision are valid, irrespective of the result of the appeal. An appeal of the directions made by the court under this subdivision shall not stay these directions.

(c) In proceedings for guardianship of the person, Section 917.7 of the Code of Civil Procedure shall apply.

(d) An appeal shall not stay the operation and effect of the judgment or order if the court requires an undertaking, as provided in Section 917.9 of the Code of Civil Procedure, and the undertaking is not given.

(e) An appeal shall not stay the operation and effect of a judgment for money or an order directing payment of money, unless one of the following applies:

(1) A bond is posted as provided in Section 917.1 of the Code of Civil Procedure.

(2) The payment is to be made from a decedent's estate being administered under Division 7 (commencing with Section 7000) or from the estate of a person who is subject to a guardianship or conservatorship of the estate under Division 4 (commencing with Section 1400). However, a court may require bond as provided in subdivision (d).

SEC. 21. Section 2805 of the Vehicle Code is amended to read:

2805. (a) For the purpose of locating stolen vehicles, (1) any member of the California Highway Patrol, or (2) a member of a city police department, a member of a county sheriff's office, or a district attorney investigator, whose primary responsibility is to conduct vehicle

theft investigations, may inspect any vehicle of a type required to be registered under this code, or any identifiable vehicle component thereof, on a highway or in any public garage, repair shop, terminal, parking lot, new or used car lot, automobile dismantler's lot, vehicle shredding facility, vehicle leasing or rental lot, vehicle equipment rental yard, vehicle salvage pool, or other similar establishment, or any agricultural or construction work location where work is being actively performed, and may inspect the title or registration of vehicles, in order to establish the rightful ownership or possession of the vehicle or identifiable vehicle component.

As used in this subdivision, ''identifiable vehicle component'' means any component which can be distinguished from other similar components by a serial number or other unique distinguishing number, sign, or symbol.

(b) A member of the California Highway Patrol, a member of a city police department or county sheriff's office, or a district attorney investigator whose primary responsibility is to conduct vehicle theft investigations, may also inspect, for the purposes specified in subdivision (a), implements of husbandry, special construction equipment, forklifts, and special mobile equipment in the places described in subdivision (a) or when that vehicle is incidentally operated or transported upon a highway.

(c) Whenever possible, inspections conducted pursuant to subdivision (a) or (b) shall be conducted at a time and in a manner so as to minimize any interference with, or delay of, business operations.

SEC. 21. Section 8.2 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by this bill, Section 1 of AB 205, and Section 3 of AB 2155. It shall only become operative if (1) all 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) SB 1318 is not enacted or if enacted does not amend Sections 6205, 6205.5, 6206, 6208.5, and 6209.7 of the Government Code, and (4) this bill is enacted after AB 205 and AB 2155, in which case Sections 8 and 8.3 of this bill shall not become operative.

SEC. 22. Section 8.3 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by this bill, Section 1.5 of AB 205, and Section 4 of AB 2155. It shall only become operative if (1) all bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1227 of the Code of Civil Procedure, (3) SB 1318 is enacted and amends Sections 6205, 6205.5, 6206, 6208.5, and 6209.7 of the Government Code, and (4) this bill is

enacted after AB 205 and AB 2155, in which case Sections 8 and 8.2 of this bill shall not become operative.

CHAPTER 689

An act to amend Sections 1170.1 and 1385 of, and to repeal Section 1170.95 of, the Penal Code, relating to sentencing.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as otherwise provided by law, and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed for applicable enhancements for prior convictions, prior prison terms, and Section 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any term imposed for applicable specific enhancements. The subordinate term for each consecutive offense shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of the term imposed for any specific enhancements applicable to those subordinate offenses.

(b) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving separate victims, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subordinate kidnapping conviction shall consist of the full middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include the full term imposed for specific enhancements applicable to those subordinate offenses.

(c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison or is subject to reimprisonment for escape from custody and the law either requires the

terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions that the person is required to serve consecutively shall commence from the time the person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a). This subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170, the court shall also impose the additional terms provided for any applicable enhancements. The court shall also impose any other additional term that the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of the additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) All enhancements shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.

(f) When two or more enhancements may be imposed for being armed with or using a dangerous or deadly weapon or a firearm in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for the infliction of great bodily injury.

(g) When two or more enhancements may be imposed for the infliction of great bodily injury in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for being armed with or using a dangerous or deadly weapon or a firearm.

(h) For any violation of an offense specified in Section 667.6, the number of enhancements that may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this section, Section 667.6, or some other provision of law. Each of the enhancements shall be a full and separately served term.

SEC. 2. Section 1170.95 of the Penal Code is repealed.

SEC. 3. Section 1385 of the Penal Code is amended to read:

1385. (a) The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons for the dismissal must be set forth in an order entered upon the minutes. No dismissal shall be made for any cause which would be ground of demurrer to the accusatory pleading.

(b) This section does not authorize a judge to strike any prior conviction of a serious felony for purposes of enhancement of a sentence under Section 667.

(c) (1) If the court has the authority pursuant to subdivision (a) to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice in compliance with subdivision (a).

(2) This subdivision does not authorize the court to strike the additional punishment for any enhancement that cannot be stricken or dismissed pursuant to subdivision (a).

CHAPTER 690

An act to add Section 10129 to the Public Contract Code, relating to public contracts.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 10129 is added to the Public Contract Code, to read:

10129. (a) Notwithstanding Section 3400, no agency of the state charged with the letting of contracts for the construction, alteration, or repair of public works may draft or cause to be drafted specifications for bids, in connection with the construction, alteration, or repair of public works, (1) in a manner as to limit the bidding, directly or indirectly, to any one specific concern, or (2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification lists at least two brands or trade names of comparable quality or utility and is followed by the words ''or equal'' so that bidders may furnish any equal material, product, thing, or service. In applying this section, the awarding authority shall, if aware of an equal product manufactured in this state, name that product in the specification. In those cases involving a unique or novel product application required to be used in the public interest, or where only one brand or trade name is known to the awarding authority, it may list only one. Specifications shall provide a period of time prior to or after the award of the contract for submission of data substantiating a request for a substitution of ''an equal'' item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(b) Subdivision (a) is not applicable if the awarding authority makes a finding that is described in the specifications that a particular material, product, thing, or service is designated by specific brand or trade name for either of the following purposes:

(1) In order that a field test or experiment may be made to determine the product's suitability for future use.

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion.

CHAPTER 691

An act to amend Section 114145 of, and to add Sections 113831, 113946, and 113947 to, the Health and Safety Code, relating to environmental health.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

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

(a) Food facility inspection information is currently developed by each local health agency. The form, scope, and content of food facility inspection information varies from agency to agency. These various methods of reporting food facility inspection information can be confusing to food facility owners, public agencies, and the public.

(b) In the event that food facility inspection information is made available in a standardized format, it will be easier for local health agencies to compare and evaluate inspection information, and the State Department of Health Services will be better able to evaluate local health agency inspection programs.

(c) The purposes of the California Uniform Retail Food Facilities Act will be advanced through standardized retail food facility inspection training, increased department oversight of local inspection programs, continuing review of the act and the federal model, and adequate funding of the department's oversight activities.

(d) Standardization of food facility inspection formats and reporting procedures should further reduce any existing confusion between jurisdictions, and contribute to increased compliance by food facility operators and thereby decrease the risk of food-borne illnesses.

SEC. 2. Section 113831 is added to the Health and Safety Code, to read:

113831. ''Outdoor beverage bar'' means an unenclosed facility operated on the same premises as, or in conjunction with, a fully enclosed food establishment where any alcoholic and nonalcoholic beverages are prepared out of doors.

SEC. 3. Section 113946 is added to the Health and Safety Code, to read:

113946. (a) On or before January 1, 2002, the department shall establish, and each local health agency shall utilize, a standardized, food facility inspection format for food facility inspections that includes all of the following:

(1) The name and address of the food facility.

(2) Identification of the following inspection criteria, which shall be the basis of the inspection report:

(A) Improper holding temperatures.

(B) Inadequate cooking.

(C) Poor personal hygiene of food handlers.

(D) Contaminated equipment.

(E) Food from unsafe sources.

(3) For each violation identified pursuant to paragraph (2), classification of the violation as a ''minor violation'' or ''major violation.'' Major violations are those violations that pose an imminent risk to public health and warrant immediate closure of the food establishment or immediate correction. Minor violations are those that do not pose an imminent public health risk, but do warrant correction.

(b) A local health agency may modify the format to add criteria to the criteria specified pursuant to paragraph (2) of subdivision (a), provided both of the following conditions are met:

(1) The additional criteria are based on other provisions of this part.

(2) A violation is identified by reference to items and sections of this part, or the regulations adopted pursuant to this part relating to those items, if a food facility is cited for a violation of the additional criteria.

(c) A copy of the most recent inspection report shall be maintained at the food facility. The food facility shall post a notice advising patrons that a copy of the most recent inspection report is available for review by interested parties.

(d) The department and local health agencies shall conduct routine training on food facility inspection standardization to promote the uniform application of inspection procedures.

(e) This section shall not restrict the ability of a local health agency to inspect and report on matters other than matters subject to regulation under this chapter.

SEC. 4. Section 113947 is added to the Health and Safety Code, to read:

113947. (a) On or before January 1, 2002, the department, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, shall establish standardized procedures for local health agencies to report the following food facility inspection information regarding each food facility:

(1) Name and address.

(2) Date of last inspection.

(3) Identification of any major violation identified in a food facility inspection.

(4) Reinspection date, if applicable.

(5) Period of closure, if applicable.

(b) The department, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, may periodically review and revise the standardized procedures established pursuant to subdivision (a). In making any revisions, the department shall strive to ensure that the required information can be reported and made available in the most efficient, timely, and cost-effective manner.

(c) (1) The standardized procedures established pursuant to this section shall include a standardized electronic format and protocol for reporting the food facility inspection data in a timely manner, and shall strive to ensure that the information is readily accessible, can be rapidly reported, and, if necessary, corrected, for each food facility that has been inspected or reinspected. If the local health agency determines that reported information is materially in error, that error shall be corrected within 48 hours after that determination.

(2) The department may also establish standardized procedures for reporting the information on magnetic media, including, but not limited to, floppy disks or magnetic tape.

(d) Within 60 days after the department has established the standardized procedures pursuant to this section, the department shall publish these procedures.

(e) (1) Commencing July 1, 2002, each local health agency that reports food facility inspection information on an Internet web site shall report the information in accordance with the standardized procedures established pursuant to this section.

(2) This section shall not restrict the ability of a local health agency to report on matters other than matters subject to regulation under this chapter.

(f) The department may establish a link to each Internet web site utilized by any local health agency containing the food facility inspection information pursuant to subdivision (e).

SEC. 5. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of any of the following:

(1) Dining areas.

(2) Open-air barbecue facilities.

(3) Outdoor wood-burning ovens that meet all of the food preparation and safety requirements applicable to open-air barbecue facilities.

(4) Outdoor beverage bars contiguous with a fully enclosed food establishment under the constant and complete control of the operator of the food establishment, provided that the following requirements are met:

(A) The food establishment is a bona fide public eating place, as defined by Sections 23038, 23038.1, and 23038.2 of the Business and Professions Code.

(B) The operator of the food establishment is a licensee, as defined by Section 23009 of the Business and Professions Code, performing under authority of a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000), Business and Professions Code) for the outdoor beverage bar.

(c) The outdoor beverage bar is, at all times, operated pursuant to the requirements of this chapter, including, without limitation, Sections 114010 and 114080, and any conditions imposed by the local health agency to ensure compliance with the requirements of this chapter.

(5) Outdoor displays that meet all of the following requirements:

(A) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(B) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(C) Outdoor displays have overhead protection that extends over all food items.

(D) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(F) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(d) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an ice maker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(6) During nonoperating hours, the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.

(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permitholder of the food establishments who is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

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

(b) 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 certain other provisions of this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 692

An act to amend Section 2253 of the Business and Professions Code, and to repeal Chapter 3 (commencing with Section 274) of Title 9 of Part 1 of the Penal Code, relating to abortions.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 2253 of the Business and Professions Code is amended to read:

2253. (a) The procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion constitutes unprofessional conduct, unless the act is done in compliance with the Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(b) A person is subject to Sections 2052 and 2053 if he or she performs or assists in performing a surgical abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon as provided in this chapter, or does not have a certificate obtained in accordance with some other provision of law that authorizes him or her to perform or assist in performing a surgical abortion.

SEC. 2. Chapter 3 (commencing with Section 274) of Title 9 of Part 1 of the Penal Code is repealed.

CHAPTER 693

An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and

social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this

section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence

of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) ''Person over the age of 55 years'' means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) ''Base year value of the original property'' means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1,

determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, ''base year value of the original property'' also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the ''base year value of the original property'' shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) ''Replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(4) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(5) ''Equal or lesser value'' means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the ''replacement dwelling is purchased or newly constructed'' is the date of purchase or the date of completion of construction, whichever is later.

(6) ''Full cash value of the replacement dwelling'' means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) ''Full cash value of the original property'' means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) ''Sale'' means any change in ownership of the original property for consideration.

(9) ''Claimant'' means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) ''Property that is eligible for the homeowner's exemption'' includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) ''Person'' means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) ''Severely and permanently disabled'' means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this

section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement

dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

SEC. 1.5. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the

base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the

claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under

this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement

dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k).

(g) For purposes of this section:

(1) ''Person over the age of 55 years'' means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) ''Base year value of the original property'' means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, ''base year value of the original property'' also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the ''base year value of the original property'' shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) ''Replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal

property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(4) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(5) ''Equal or lesser value'' means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the ''replacement dwelling is purchased or newly constructed'' is the date of purchase or the date of completion of construction, whichever is later.

(6) ''Full cash value of the replacement dwelling'' means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) ''Full cash value of the original property'' means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) ''Sale'' means any change in ownership of the original property for consideration.

(9) ''Claimant'' means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) ''Property that is eligible for the homeowner's exemption'' includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) ''Person'' means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) ''Severely and permanently disabled'' means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this

subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowner's exemption. If the rescission

increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(3) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(*l*) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 69.5 of the Revenue and Taxation Code proposed by both this bill and SB 1417. It shall only become operative if (1) both bills are enacted and come effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 69.5 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1417, in which case Section 69.5 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 1417, at which time Section 1.5 of this bill shall become operative.

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 694

An act to add Section 10506.5 to the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 10506.5 is added to the Insurance Code, to read:

10506.5. (a) For the purposes of this section, ''guaranteed living benefit'' means a benefit in a variable annuity or a variable life insurance contract providing that one or more benefit amounts available to a living contractholder, under specified conditions, will be enhanced should it fall below a given level, in the absence of the guaranteed living benefit.

(b) An insurer may deliver or issue for delivery contracts containing, or riders to variable contracts providing, guaranteed living benefits if all the following requirements are met:

(1) The insurer is authorized to deliver, or issue for delivery, variable insurance products in this state.

(2) The insurer meets the requirements of paragraph (1) of subdivision (d) of Section 10506.4.

(3) The commissioner has issued a bulletin setting forth the terms and conditions under which variable contracts containing or riders to variable contracts providing guaranteed living benefits may be issued or delivered in this state.

(4) The variable contract or rider meets the terms and conditions for guaranteed living benefits established by the commissioner and set forth in the bulletin described in paragraph (3) and the insurer desiring to issue the variable contract or rider has satisfied the requirements set forth in Section 2529 of Title 10 of the California Code of Regulations.

(c) The bulletin described in paragraph (3) of subdivision (b) may include provisions covering requirements similar to those included in subdivision (f) of Section 10506.4. The bulletin shall have the same force and effect, and may be enforced by the commissioner to the same extent and degree as regulations issued by the commissioner until the time that the commissioner issues additional or amended regulations pertaining to guaranteed living benefits.

(d) An insurer may not deliver or issue for delivery variable contracts containing, or riders to variable contracts, providing guaranteed living benefits except pursuant to this section. No policy, contract, rider, or agreement that constitutes investment return assurance pursuant to Section 10203.10 or 10507, or guarantee pursuant to Section 10506.4, may be issued pursuant to this section.

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

In order for consumers to receive the benefits of the insurance contracts authorized by this act on a timely basis, it is necessary that this act take effect immediately.

CHAPTER 695

An act to amend Sections 52052, 52052.3, 52053, 52054, 52054.5, 52055, 52055.5, 52056, 52057, and 52058 of the Education Code, and to amend Section 2 of Chapter 3 of the Statutes of 1999, relating to academic achievement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with
Secretary of State September 27, 2000.]

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

SECTION 1. Section 52052 of the Education Code is amended to read:

52052. (a) (1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by

September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically-significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API ranking.

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

SEC. 2. Section 52053 of the Education Code is amended to read:

52053. (a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of

schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105-78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105-78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API below the 50th percentile relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (l) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(l) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

(m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than October 15 of each year.

SEC. 2.5. Section 52052.3 of the Education Code, as added by Chapter 71 of the Statutes of 2000, is amended to read:

52052.3. Test scores of pupils who are in the first year of enrollment in a high school district, but who, in the prior year, were enrolled in an elementary school district that normally matriculates to the high school district, shall be included in the Academic Performance Index, as provided in Section 52052.

SEC. 3. 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) 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 February 15 of the school year in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance 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.

(d) 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 language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and all 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.

(e) 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.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(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, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 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. Within thirty days of the State Board of Education's review, the State Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, 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.

SEC. 4. Section 52054.5 of the Education Code is amended to read:

52054.5. Subject to the appropriation of funds for this purpose in the Budget Act, a school whose application is approved shall receive a grant for implementing the program, in each subsequent fiscal year that it participates in the program, in an amount up to two hundred dollars ($200) per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds.

SEC. 5. Section 52055 of the Education Code is amended to read:

52055. The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5 shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth target.

SEC. 6. Section 52055.5 of the Education Code is amended to read:

52055.5. (a) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has met or exceeded its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received pursuant to that section may be used at the school's discretion.

(b) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5.

Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

(c) A school that does not meet its growth targets within the periods described in either subdivision (a) or (b), as applicable, and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (e). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(d) In addition to the actions listed in subdivision (c), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (c).

(e) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (c), the Superintendent of Public Instruction or a designee of the superintendent shall hold a

public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(f) An action taken pursuant to subdivision (c), (d), or (e) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (c), (d), or (e) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

SEC. 7. Section 52056 of the Education Code is amended to read:

52056. (a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked by the value of the API in decile categories by grade level of instruction provided and shall include three categories: elementary, middle, and high school. The schools shall also be ranked by the value of the API when compared to schools with similar characteristics. Commencing in June 2001, the Superintendent of Public Instruction shall also report the target annual growth rates of schools, and the actual growth rates attained by the schools. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) All schools shall report their ranking, including a description of the components of the API, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) Following the annual publication of the API and school rankings by the Superintendent of Public Instruction, the governing board of each school district shall discuss the results of the annual ranking at the next regularly scheduled meeting.

SEC. 8. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education 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. The board may grant the request 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. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county

board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 8.5. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education 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, and the board may grant the request 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. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a

county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 9. Section 52058 of the Education Code is amended to read:

52058. (a) Each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers

assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3) (A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

(d) The Superintendent of Public Instruction shall recommend and the State Board of Education shall approve a schedule for biennial evaluations of the programs established pursuant to this chapter, subsequent to the evaluation required by this section. The biennial evaluations shall be submitted, with appropriate recommendations, by June 30 of every odd-numbered year, commencing with the year 2003.

SEC. 10. Section 2 of Chapter 3 of the Statutes of 1999, of the First Extraordinary Session, is amended to read:

Sec. 2. (a) The sum of one hundred ninety-three million two hundred thousand dollars ($193,200,000) is hereby appropriated according to the following schedule:

(1) Sixty-three million seven hundred four thousand dollars ($63,704,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(2) Thirty-two million four hundred forty-six thousand dollars ($32,446,000) from the Federal Trust Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(3) Ninety-six million one hundred fifty thousand dollars ($96,150,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed performance growth targets established by the board pursuant to the

High Achieving/Improving Schools Program as set forth in Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of the Education Code. Funds appropriated pursuant to this paragraph that have not been allocated by June 30, 2000, shall be available for allocation and expenditure for purposes of this paragraph in the 2000–01 fiscal year.

(4) Nine hundred thousand dollars ($900,000) from the General Fund to the Superintendent of Public Instruction to provide support services related to programs established by the Public Schools Accountability Act of 1999 pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (3) shall be deemed to be ''General Fund revenues appropriated for school districts,'' as defined in subdivision (c) of Section 41202 of the Education Code, for the 1999–2000 fiscal year, and included within the ''total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,'' as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 12. Section 8.5 of this bill incorporates amendments to Section 52057 of the Education Code proposed by both this bill and SB 961. 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 52057 of the Education Code, and (3) this bill is enacted after SB 961, in which case Section 52057 of the Education Code, as amended by Section 6 of this bill, shall remain operative only until January 1, 2001, at which time Section 8.5 of this bill shall become operative.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of the Public Schools Accountability Act of 1999, and to provide clarification, it is necessary that this bill take effect immediately.

CHAPTER 696

An act to amend Sections 14087.51 and 14087.57 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 14087.51 of the Welfare and Institutions Code is amended to read:

14087.51. (a) It is necessary that a special commission be established in San Mateo County and in any other county designated by the California Medical Assistance Commission in order to meet the problems of the delivery of publicly assisted medical care in the counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) The Board of Supervisors of San Mateo County and of the designated counties may, by ordinance, establish commissions to do any or all of the following:

(1) Negotiate the exclusive contracts specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter.

(2) Enter into contracts for the provision of health care services to subscribers in the Healthy Families Program.

(c) In addition to the authority specified in subdivision (b), the Board of Supervisors of San Mateo County may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(1) Persons who are eligible to receive medical benefits under this chapter in the county, including, but not limited to, persons who are eligible through federal waiver or a pilot project.

(2) Persons who are eligible to receive medical benefits under both Title 18 and Title 19 of the federal Social Security Act.

(3) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act.

(4) Persons who are eligible to receive medical benefits under publicly supported programs if the commission and participating providers acting pursuant to subcontracts with the commission agree to

hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.

(d) If the board of supervisors elects to enact an ordinance pursuant to this section, all rights, powers, duties, privileges, and immunities vested in a county by an article shall be vested in the county commission. Any reference in this article to ''county'' shall mean a commission established pursuant to this section.

(e) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, and such other matters as the board of supervisors deems necessary or convenient for the conduct of the county commission's activities. All commissioners shall be appointed by majority vote of the board of supervisors and shall serve at the pleasure thereof. The board of supervisors may appoint no more than two of its own members to serve on the commission.

(f) As an alternative to establishing a separate commission, the enabling ordinance may designate the board of supervisors itself as the commission authorized by this article.

SEC. 2. Section 14087.57 of the Welfare and Institutions Code is amended to read:

14087.57. Notwithstanding any provision of law, a member of a commission authorized by Section 14087.51 or 14087.54, or a member of any advisory committee to the commission, shall not be deemed to be interested in a contract entered into by the commission within the meaning of Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code if all of the following apply:

(a) The member was appointed to represent the interests of physicians, health care practitioners, hospitals, pharmacies, or other health care organizations.

(b) The contract authorizes the member or the organization the member represents to provide services under the commission's program.

(c) The contract contains substantially the same terms and conditions as contracts entered into with other individuals or organizations that the member was appointed to represent.

(d) The member does not influence or attempt to influence the commission or another member of the commission to enter into the contract in which the member is interested.

(e) The member discloses the interest to the commission and abstains from voting on the contract.

(f) The commission notes the member's disclosure and abstention in its official records and authorizes the contract in good faith by a vote of

its membership sufficient for the purpose without counting the vote of the interested member.

CHAPTER 697

An act to amend Sections 101 and 144 of, to add and repeal Section 2570.19 of, and to repeal and add Chapter 5.6 (commencing with Section 2570) of Division 2 of, the Business and Professions Code, relating to occupational therapy, and making an appropriation therefor.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Dental Board of California.
(b) The Medical Board of California.
(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The Barbering and Cosmetology Program.
(i) The Board for Professional Engineers and Land Surveyors.
(j) The Contractors' State License Board.
(k) The Funeral Directors and Embalmers Program.
(*l*) The Structural Pest Control Board.
(m) The Bureau of Home Furnishings and Thermal Insulation.
(n) The Board of Registered Nursing.
(o) The Board of Behavioral Sciences.
(p) The State Athletic Commission.
(q) The Cemetery Program.
(r) The State Board of Guide Dogs for the Blind.
(s) The Bureau of Security and Investigative Services.
(t) The Court Reporters Board of California.
(u) The Board of Vocational Nursing and Psychiatric Technicians.
(v) The Landscape Architects Technical Committee.
(w) The Bureau of Electronic and Appliance Repair.
(x) The Division of Investigation.
(y) The Bureau of Automotive Repair.

(z) The State Board of Registration for Geologists and Geophysicists.
(aa) The State Board of Nursing Home Administrators.
(ab) The Respiratory Care Board of California.
(ac) The Acupuncture Board.
(ad) The Board of Psychology.
(ae) The California Board of Podiatric Medicine.
(af) The Physical Therapy Board of California.
(ag) The Arbitration Review Program.
(ah) The Committee on Dental Auxiliaries.
(ai) The Hearing Aid Dispensers Advisory Commission.
(aj) The Physician Assistant Committee.
(ak) The Speech-Language Pathology and Audiology Board.
(a*l*) The Tax Preparers Program.
(am) The California Board of Occupational Therapy.
(an) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 1.1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:
(a) The Dental Board of California.
(b) The Medical Board of California.
(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Veterinary Medical Board.
(f) The California Board of Accountancy.
(g) The California Architects Board.
(h) The Bureau of Barbering and Cosmetology.
(i) The Board for Professional Engineers and Land Surveyors.
(j) The Contractors' State License Board.
(k) The Bureau for Private Postsecondary and Vocational Education.
(*l*) The Structural Pest Control Board.
(m) The Bureau of Home Furnishings and Thermal Insulation.
(n) The Board of Registered Nursing.
(o) The Board of Behavioral Sciences.
(p) The State Athletic Commission.
(q) The Cemetery and Funeral Bureau.
(r) The State Board of Guide Dogs for the Blind.
(s) The Bureau of Security and Investigative Services.
(t) The Court Reporters Board of California.
(u) The Board of Vocational Nursing and Psychiatric Technicians.
(v) The Landscape Architects Technical Committee.
(w) The Bureau of Electronic and Appliance Repair.
(x) The Division of Investigation.
(y) The Bureau of Automotive Repair.

(z) The State Board for Geologists and Geophysicists.
(aa) The Respiratory Care Board of California.
(ab) The Acupuncture Board.
(ac) The Board of Psychology.
(ad) The California Board of Podiatric Medicine.
(ae) The Physical Therapy Board of California.
(af) The Arbitration Review Program.
(ag) The Committee on Dental Auxiliaries.
(ah) The Hearing Aid Dispensers Bureau.
(ai) The Physician Assistant Committee.
(aj) The Speech-Language Pathology and Audiology Board.
(ak) The Osteopathic Medical Board of California.
(a*l*) The California Board of Occupational Therapy.
(am) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 1.2. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following boards or committees:
(1) California Board of Accountancy.
(2) State Athletic Commission.
(3) Board of Behavioral Sciences.
(4) Court Reporters Board of California.
(5) State Board of Guide Dogs for the Blind.
(6) California State Board of Pharmacy.
(7) Board of Registered Nursing.
(8) Veterinary Medical Board.
(9) Registered Veterinary Technician Committee.
(10) Board of Vocational Nursing and Psychiatric Technicians.
(11) Respiratory Care Board of California.
(12) Hearing Aid Dispensers Advisory Commission.
(13) Physical Therapy Board of California.
(14) Physician Assistant Committee of the Medical Board of California.
(15) Speech-Language Pathology and Audiology Board.
(16) Medical Board of California.
(17) Board of Nursing Home Administrators.
(18) State Board of Optometry.

(19) Acupuncture Board.
(20) Cemetery and Funeral Programs.
(21) Bureau of Security and Investigative Services.
(22) Division of Investigation.
(23) Board of Psychology.
(24) The California Board of Occupational Therapy.

SEC. 2. Chapter 5.6 (commencing with Section 2570) of Division 2 of the Business and Professions Code is repealed.

SEC. 3. Chapter 5.6 (commencing with Section 2570) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.6. OCCUPATIONAL THERAPY

2570. This chapter may be cited as the Occupational Therapy Practice Act.

2570.1. The Legislature finds and declares that the practice of occupational therapy in California affects the public health, safety, and welfare and there is a necessity for that practice to be subject to regulation and control.

2570.2. As used in this chapter, unless the context requires otherwise:

(a) ''Appropriate supervision of an aide'' means that the responsible occupational therapist shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.

(b) ''Aide'' means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy. An occupational therapy assistant shall not supervise an aide engaged in client-related tasks.

(c) ''Association'' means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.

(d) ''Board'' means the California Board of Occupational Therapy.

(e) ''Examination'' means an entry level certification examination for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.

(f) ''Good standing'' means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person's license.

(g) ''Occupational therapist'' means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.

(h) ''Occupational therapy assistant'' means an individual who is certified pursuant to the provisions of this chapter, who is in good standing as determined by the board, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.

(i) ''Occupational therapy services'' means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.

(j) ''Person'' means an individual, partnership, unincorporated organization, or corporation.

(k) ''Practice of occupational therapy'' means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy

consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

(*l*) ''Hand therapy'' means the treatment of the hand, wrist, and forearm.

2570.3. (a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is certified as an occupational therapy assistant under the provisions of this chapter.

(b) Only an individual may be licensed or certified under this chapter.

(c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.

(d) An occupational therapist may provide feeding or swallowing assessment, evaluation, or intervention if the therapist has demonstrated to the satisfaction of the board that he or she has met educational training, and competency requirements that the board shall develop in collaboration with the Speech-Language Pathology and Audiology Board.

(e) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.

(f) ''Supervision of an occupational therapy assistant'' means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client's record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist's appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.

(1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.

(2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. Two occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.

(g) On and after January 1, 2005, any occupational therapist providing hand therapy services shall be certified by the Hand Therapy Certification Commission and shall maintain this certification in order to continue to provide hand therapy services.

(1) Techniques used by hand therapists to augment occupational therapy treatment are physical agent modalities and massage.

(2) On and after January 1, 2002, occupational therapists who are seeking certification by the Hand Therapy Certification Commission, and who have duly notified the board in writing of their intent to seek that certification, may provide hand therapy services under the supervision of an occupational therapist or physical therapist certified by the Hand Therapy Certification Commission in order to complete the experience requirements for certification.

(3) The board shall promulgate rules and regulations specifically pertaining to the practice of hand therapy by a person licensed under this chapter.

(h) In developing the rules and regulations required under this section, the board shall collaborate with the Physical Therapy Board of California and the Board of Registered Nursing.

2570.4. Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

(a) Any person licensed, certified, or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed, certified, or otherwise recognized.

(b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title which clearly indicates his or her status as a student or trainee.

(c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.

(d) Any person performing occupational therapy services in the state, if those services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under this chapter, and if either of the following conditions is satisfied:

(1) The person is licensed under the laws of another state which the board determines has licensure requirements at least as stringent as the requirements of this chapter.

(2) The person successfully completes the entry-level certification examination requirement described in subdivision (b) of Section 2570.7.

(e) Any person employed as an aide subject to the supervision requirements of this section.

2570.5. (a) A limited permit may be granted to any person who has completed the education and experience requirements of this chapter.

(b) A person who meets the qualifications to be admitted to the examination for licensure or certification under this chapter and is awaiting the announcement of the results of the next succeeding examination, according to the application requirements for a limited permit, may practice as an occupational therapist or as an occupational therapy assistant under the direction and appropriate supervision of an occupational therapist duly licensed under this chapter. If that person fails to qualify for or pass the first announced examination, all privileges under this section shall automatically cease upon due notice to the applicant of that failure and may not be renewed.

(c) A limited permit shall be subject to other requirements set forth in rules adopted by the board.

2570.6. An applicant applying for a license as an occupational therapist or certification as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE).

(2) The curriculum of an education program for occupational therapists shall contain the content specifically required in the ACOTE accreditation standards, including all of the following subjects:

(A) Biological, behavioral, and health sciences.

(B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.

(C) Human development throughout the life span.

(D) Human behavior in the context of sociocultural systems.

(E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.

(F) Occupational therapy theory, practice, and process which shall include the following:

(i) Human performance which shall include occupational performance throughout the life cycle, human interaction, roles, values, and the influences of the nonhuman environment.

(ii) Activity processes which shall include the following:

(I) Theories underlying the use of purposeful activity and the meaning and dynamics of activity.

(II) Performance of selected life tasks and activities.

(III) Analysis, adaptation, and application of purposeful activity as therapeutic intervention.

(IV) Use of self, dyadic, and group interaction.

(iii) Theoretical approaches, including those related to purposeful activity, human performance, and adaptation.

(iv) Application of occupational therapy theory to practice, which shall include the following:

(I) Assessment and interpretation, observation, interviews, history, standardized and nonstandardized tests.

(II) Directing, planning and implementation, which shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; and health maintenance, including energy conservation, joint protection, body mechanics, and positioning; prevention programs to foster age-appropriate recommendations to maximize treatment gains.

(III) Program termination including reevaluation, determination of discharge, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.

(IV) Documentation.

(v) Development and implementation of quality assurance.

(vi) Management of occupational therapy service, which shall include:

(I) Planning services for client groups.

(II) Personnel management, including occupational therapy assistants, aides, volunteers, and level I students.

(III) Departmental operations, including budgeting, scheduling, recordkeeping, safety, and maintenance of supplies and equipment.

(3) The curriculum of an education program for occupational therapy assistants shall contain the content specifically required in the ACOTE accreditation standards, including all of the following subjects:

(A) Biological, behavioral, and health sciences.

(B) Structure and function of the normal human body.

(C) Human development.

(D) Conditions commonly referred to occupational therapists.

(E) Occupational therapy principles and skills, which shall include the following:

(i) Human performance, including life tasks and roles as related to the developmental process from birth to death.

(ii) Activity processes and skills, which shall include the following:

(I) Performance of selected life tasks and activities.

(II) Analysis and adaptation of activities.

(III) Instruction of individuals and groups in selected life tasks and activities.

(iii) Concepts related to occupational therapy practice, which shall include the following:

(I) The importance of human occupation as a health determinant.

(II) The use of self, interpersonal, and communication skills.

(iv) Use of occupational therapy concepts and skills, which shall include the following:

(I) Data collection, which shall include structured observation and interviews, history, and structured tests.

(II) Participation in planning and implementation, which shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including mental health techniques, energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate balance of self-care and work.

(III) Program termination, including assisting in reevaluation, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.

(IV) Documentation.

(c) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or arranged by a nationally recognized professional association. The fieldwork requirements shall be as follows:

(1) For an occupational therapist, a minimum of 960 hours of supervised fieldwork experience shall be completed within 24 months of the completion of didactic coursework.

(2) For an occupational therapy assistant, a minimum of 640 hours of supervised fieldwork experience shall be completed within 20 months of the completion of didactic coursework.

(d) That the applicant has passed an examination as provided in Section 2570.7.

(e) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure or certification under Section 480.

2570.7. (a) An applicant who has satisfied the requirements of Section 2570.6 may apply for examination for licensure or certification in a manner prescribed by the board. Subject to the provisions of this chapter, an applicant who fails an examination may apply for reexamination.

(b) Each applicant for licensure or certification shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants approved by the board, such as the examination administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.

(c) Applicants for licensure or certification shall be examined at a time and place and under that supervision as the board may require. Examinations shall be given at least twice each year at places determined by the board. The board shall give reasonable public notice of these examinations pursuant to rules adopted by the board.

2570.8. (a) The board may grant a license or certificate to any person who applies on or before January 1, 2003, and who met the requirements of Section 2570 before January 1, 2003.

(b) The board may grant a license or certificate to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States, if that jurisdiction requires standards for licensure considered by the board to meet or exceed the requirements for licensure or certification under this chapter.

(c) An applicant seeking a license or certificate under this section based on his or her current practice shall submit to the board all of the

following as proof of actual practice within one year of the effective date of this chapter:

(1) The applicant's affidavit containing all of the following information:

(A) The location and dates of the applicant's employment for the relevant period.

(B) A description of the capacity in which the applicant was employed, including job title and description of specific duties and the nature of the patients or clientele.

(C) The name and job title of the applicant's supervisor.

(2) A written job description.

(3) The employer's affidavit containing all of the following information:

(A) The dates of the applicant's employment for the relevant period.

(B) A description of the applicant's specific duties.

(C) The title of the person completing the affidavit.

(d) After reviewing the information submitted under subdivision (c), the board may require additional information necessary to enable it to determine whether to grant a license or certificate under this section.

2570.9. The board shall issue a license or certificate to any applicant who meets the requirements of this chapter, including the payment of the prescribed licensure, certification, or renewal fee, and who meets any other requirement in accordance with applicable state law.

2570.10. (a) Any license or certificate issued under this chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license or certificate as provided for in Section 163.5.

(b) In addition to any other qualifications and requirements for licensure or certification renewal, the board may by rule establish and require the satisfactory completion of continuing competency requirements as a condition of renewal of a license or certificate.

2570.11. Upon a written request, the board may grant inactive status to an occupational therapist or occupational therapy assistant who is in good standing, who meets the requirements of Section 462.

2570.13. (a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.

(b) A certified occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.

(c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist.

2570.14. Any initial applicant who has not been actively engaged in the practice of occupational therapy within the past five years shall provide to the board, in addition to the requirements for licensure under Section 2570.6, any of the following:

(a) Evidence of continued competency as referred to in subdivision (b) of Section 2570.10 for the previous two-year period.

(b) Evidence of having completed the entry-level certification examination as described in subdivision (b) of Section 2570.7 within the previous two-year period.

(c) Evidence of having successfully completed a board-approved educational program specifically designed for applicants preparing for reentry into the field of occupational therapy.

2570.15. Occupational therapists and occupational therapy assistants trained outside of the United States and its possessions shall be required to satisfy the examination requirements of Section 2570.7. The board shall require that these applicants have completed educational and supervised fieldwork requirements substantially equal to those contained in Section 2570.6, before taking the examination.

2570.16. Initial license or certification and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars ($150) per year. The board shall establish the following additional fees:

(a) A late renewal fee as provided for in Section 2570.10.

(b) A limited permit fee.

(c) A fee to collect fingerprints for criminal history record checks.

2570.17. The board may, after a hearing in accordance with the Administrative Procedure Act, deny a license or certificate, or suspend or revoke the license or certificate of, or place on probation, reprimand, censure, or otherwise discipline, a licensee or certificated person in accordance with Section 480.

2570.18. (a) On and after January 1, 2003, a person shall not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations ''O.T.,'' ''O.T.R.,'' or ''O.T.R./L.,'' or ''Occupational Therapist,'' or ''Occupational Therapist Registered,'' or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

(c) Unless certified to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations ''O.T.A.,'' ''C.O.T.A.,''

''C.O.T.A./C.'' or ''Occupational Therapy Assistant,'' or ''Certified Occupational Therapy Assistant,'' or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

(d) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

2570.185. An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record. Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereinafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to or have a household member who is an occupational therapist or an occupational therapy assistant and may not have had within two years of the appointment a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars ($1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars ($610,000) of this loan amount is hereby appropriated to the board to use in the 2000-01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act. The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.

(*l*) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the

dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

2570.20. (a) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter.

(b) The board shall adopt rules in accordance with the Administrative Procedure Act relating to professional conduct to carry out the purpose of this chapter, including, but not limited to, rules relating to professional licensure or certification and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy and for persons certified to assist in the practice of occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Section 5102.

2570.21. Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees

2570.22. All fees collected by the board shall be paid into the State Treasury and shall be credited to the Occupational Therapy Fund which is hereby created. The money in the fund shall be available, upon appropriation by the Legislature, for expenditure by the board to defray its expenses and to otherwise administer this chapter.

2570.23. Any person who violates Section 2570.3 is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars ($5,000), or by imprisonment of not more than one year in a county jail, or by both that fine and imprisonment.

2570.24. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

SEC. 4. Except for Section 2 of this act, this act shall become operative January 1, 2001. Section 2 of this act shall become operative January 1, 2003.

SEC. 5. Section 1.1 of this bill incorporates amendments to Section 101 of the Business and Professions Code proposed by both this bill and SB 2031. 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 101 of the Business and Professions Code, and (3) this bill is enacted after SB 2031, in which case Section 1 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 698

An act to add Section 8570.5 to the Government Code, relating to agricultural disasters, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 8570.5 is added to the Government Code, to read:

8570.5. The Office of Emergency Services shall develop a guidance document to the state emergency plan to specify the response of the state and its political subdivisions to agriculture-related disasters. This document shall be completed by January 2002 and shall include, but not be limited to, all of the following:

(a) The roles and responsibilities of the county agricultural commissioners.

(b) The roles and responsibilities of the Department of Agriculture and other relevant state agencies that are involved in the response to agriculture-related disasters.

(c) Coordination of initial and ongoing crop damage assessments.

(d) Disaster assistance between the time of the request for a federal disaster declaration and issuance of a federal declaration.

(e) State assistance available if a requested federal declaration is not issued.

(f) State assistance under a United States Department of Agriculture designation rather than a federal declaration.

(g) State assistance for long-term unemployment in areas with high unemployment rates prior to an emergency.

(h) Provision for the removal and elimination of extraordinary numbers of dead livestock for purposes of protecting public health and safety.

(i) Strategies to assist in the development of an integrated and coordinated response by community-based organizations to the victims of agriculture-related disasters.

(j) Procedures for the decontamination of individuals who have been or may have been exposed to hazardous materials, which may vary depending on the hazards posed by a particular hazardous material. The report shall specify that individuals shall be assisted in a humanitarian manner.

(k) Integration of various local and state emergency response plans, including, but not limited to, plans that relate to hazardous materials, oil spills, public health emergencies, and general disasters.

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

In order that farmers affected by natural or quarantine disasters may receive the benefits of this act at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 699

An act to amend Sections 15363.72 and 15363.75 of, and to repeal and add Section 15363.73 of, the Government Code, relating to economic development.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 15363.72 of the Government Code is amended to read:

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, limited to any of the following:

(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, including, but not limited to, municipal utilities, transportation and street maintenance, and recreational agencies.

(5) Local property use fees.

(6) Rental costs for equipment mandated and owned by a public agency in connection with the film.

(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) California 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.

SEC. 2. Section 15363.73 of the Government Code is repealed.

SEC. 3. Section 15363.73 is added to the Government Code, to read:

15363.73. (a) The Trade and Commerce Agency may pay and reimburse the film costs incurred by a public agency, subject to an audit. The director of the commission shall develop alternate procedures for the reimbursement of public agency costs incurred by the production company. The Trade and Commerce Agency shall only reimburse actual costs incurred and may not reimburse for duplicative costs.

(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 Trade and Commerce Agency may audit the public agency for invoice compliance with the program requirements.

(c) (1) Not more than three hundred thousand dollars ($300,000) shall be expended to pay or reimburse costs incurred on any one film.

(2) In developing the procedures and guidelines for the program, the commission may, in consultation with interested public agencies, establish limits on per-day film costs that the state will reimbugrse. A

consultation and comment period shall begin on January 1, 2001, and shall end 30 days thereafter.

(d) (1) Upon receipt of all necessary film costs documentation from a public agency, the Trade and Commerce Agency shall transmit the appropriate information to the Controller for payment of the film costs within 30 days.

(2) Public agencies shall be entitled to reimbursement for certain administrative costs, to be determined by the director of the commission, incurred while participating in the program. The reimbursement for administrative costs shall not exceed 1 percent of the total amount of the invoices submitted. Reimbursement shall have an annual cap imposed of not more than ten thousand dollars ($10,000) per public agency participating in the program. Contracted agents working on behalf of two or more public agencies shall have a cap of not more than twenty thousand dollars ($20,000) annually.

(e) The commission shall prepare annual preliminary reports to be submitted to the Joint Legislative Budget Committee in regard to the program prior to the adoption of the annual Budget Act. The reports shall include a list of all entities that received funds from the program, the amounts they received, and the public services that were reimbursed. The commission shall prepare and submit a final report to the committee no later than January 1, 2004.

(f) The commission shall, in consultation with the Department of Industrial Relations and the Employment Development Department, contract with an independent audit firm or qualified academic expert, to prepare a report to be submitted to the Joint Legislative Budget Committee no later than January 1, 2004, that identifies the beneficiaries of expenditures from the Film California First Fund, and determines the impact of these expenditures on job retention and job creation in California.

SEC. 4. Section 15363.75 of the Government Code is amended to read:

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 commission 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 commission complies with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1, as required by subdivision (e) of Section 11346.1.

CHAPTER 700

An act to add Chapter 4 (commencing with Section 14999.50) to Part 5.7 of Division 3 of Title 2 of the Government Code, relating to film and television production.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Chapter 4 (commencing with Section 14999.50) is added to Part 5.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. STATE THEATRICAL ARTS RESOURCES PARTNERSHIP

14999.50. It is the intent of the Legislature to help develop California's film industry and thereby further strengthen the state's economy by providing surplus government-owned property to film and television movie production companies at a low cost.

14999.55. (a) The State Theatrical Arts Resources (STAR) Partnership is hereby established within the California Film Commission.

(b) The commission shall collaborate with the Department of General Services and other appropriate state agencies in identifying surplus state properties that may be available for use under the partnership.

(c) The commission shall list available properties for the use of filmmakers and location scouts at an interactive web site, with relevant information about the properties and instructions for contacting the commission and obtaining use of the properties.

(d) The state properties identified under the program shall be made available for film and television production at a nominal fee, as established by the commission and the Department of General Services or other appropriate state agency. Production companies shall be responsible for any additional related costs, such as maintenance or electrical costs, that the state incurs because of filming at the property.

(e) The commission shall work with the Film Liaisons in California, Statewide, to establish local STAR partnerships to identify local surplus or unused government property or assets that may be used for film and television movie production.

CHAPTER 701

An act to amend Sections 12698, 12705, and 12725 of the Insurance Code, relating to health insurance, and making an appropriation therefor.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 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 Indian Health Insurance Purchase Act of 1999.

SEC. 2. The Legislature finds and declares all of the following:

(a) California's Native American tribes lack access to adequate health care services and to health care coverage. The rural areas in which tribes traditionally have resided and the lack of employment relationships of some tribal members make health care coverage difficult to obtain for California's federally recognized Indian tribes and their members.

(b) At least two licensed health care service plans have agreed to offer group health care coverage to members of California tribes under certain conditions, including requirements pertaining to eligibility, participation, and tribal contributions toward premiums, and have agreed to file an undertaking with the Department of Managed Care describing these efforts. These health plans have also agreed to make affirmative efforts to market this coverage to tribes in California.

(c) It is the intent of the Legislature that these health care service plans provide information to the Department of Managed Care, beginning on or before December 31, 2001, on their marketing efforts to California tribes, the number of tribes that elect to purchase coverage, the number of tribal members that are covered pursuant to agreements with these health plans, and the participation of agents and brokers in this effort. It is the intent of the Legislature that these reports continue annually until December 31, 2006.

SEC. 3. Section 12698 of the Insurance Code is amended to read:

12698. To be eligible to participate in the program, a person shall meet all of the following requirements:

(a) Be a resident of the state for at least six continuous months prior to application. A person who is a member of a federally recognized California Indian tribe is a resident of the state for these purposes.

(b) (1) Until the first day of the second month following the effective date of the amendment made to this subdivision in 1994, have a household income that does not exceed 250 percent of the official federal poverty level unless the board determines that the program funds are adequate to serve households above that level.

(2) Upon the first day of the second month following the effective date of the amendment made to this subdivision in 1994, have a household income that is above 200 percent of the official federal poverty level but does not exceed 250 percent of the official federal poverty level unless the board determines that the program funds are adequate to serve households above the 250 percent of the official federal poverty level.

(c) Pay an initial subscriber contribution of not more than fifty dollars ($50), and agree to the payment of the complete subscriber contribution. A federally recognized California Indian tribal government may make the initial and complete subscriber contributions on behalf of a member of the tribe only if a contribution on behalf of members of federally recognized California Indian tribes does not limit or preclude federal financial participation under Title XXI of the Social Security Act. If a federally recognized California Indian tribal government makes a contribution on behalf of a member of the tribe, the tribal government shall ensure that the subscriber is made aware of all the health plan options available in the county where the member resides..

SEC. 4. Section 12705 of the Insurance Code is amended to read:

12705. For the purposes of this part, the following terms have the following meanings:

(a) ''Applicant'' means an individual who applies for major risk medical coverage through the program.

(b) ''Board'' means the Managed Risk Medical Insurance Board.

(c) ''Fund'' means the Major Risk Medical Insurance Fund, from which the program may authorize expenditures to pay for medically necessary services which exceed subscribers' contributions, and for administration of the program.

(d) ''Major risk medical coverage'' means the payment for medically necessary services provided by institutional and professional providers.

(e) ''Participating health plan'' means a private insurer (1) holding a valid outstanding certificate of authority from the Insurance Commissioner, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2, a nonprofit membership corporation lawfully operating under the Nonprofit Corporation Law (Division 2 (commencing with Section

5000) of the Corporations Code), or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health care services under insurance policies or contracts, medical and hospital service agreements, or membership contracts, in consideration of premiums or other periodic charges payable to it, and (2) which contracts with the program to administer major risk medical coverage to program subscribers.

(f) ''Plan rates'' means the total monthly amount charged by a participating health plan for a category of risk.

(g) ''Program'' means the California Major Risk Medical Insurance Program.

(h) ''Subscriber'' means an individual who is eligible for and receives major risk medical coverage through the program, and includes a member of a federally recognized California Indian tribe.

(i) ''Subscriber contribution'' means the portion of participating health plan rates paid by the subscriber, or paid on behalf of the subscriber by a federally recognized California Indian tribal government. If a federally recognized California Indian tribal government makes a contribution on behalf of a member of the tribe, the tribal government shall ensure that the subscriber is made aware of all the health plan options available in the county where the member resides.

SEC. 5. Section 12725 of the Insurance Code is amended to read:

12725. Each resident of the state meeting the eligibility criteria of this section and who is unable to secure adequate private health coverage is eligible to apply for major risk medical coverage through the program. For these purposes, ''resident'' includes a member of a federally recognized California Indian tribe. To be eligible for enrollment in the program an applicant shall have been rejected for health care coverage by at least one private health plan. An applicant shall be deemed to have been rejected if the only private health coverage which the applicant could secure would (1) impose substantial waivers which the program determines would leave a subscriber without adequate coverage for medically necessary services, or (2) would afford such limited coverage, as the program determines would leave the subscriber without adequate coverage for medically necessary services, or (3) would afford coverage only at an excessive price, which the board determines is significantly above standard average individual coverage rates. Rejection for policies or certificates of specified disease or policies or certificates of hospital confinement indemnity, as described in Section 10198.61, shall not be deemed to be rejection for the purposes of eligibility for enrollment. The board may permit dependents of eligible subscribers to enroll in major risk medical coverage through the program if the board determines the

enrollment can be carried out in an actuarially and administratively sound manner.

CHAPTER 702

An act to amend Sections 17021 and 17055 of the Health and Safety Code, relating to housing.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 17021 of the Health and Safety Code is amended to read:

17021. (a) Except as provided in Sections 17021.5 and 17021.6, local use zone requirements, local fire zones, property line, source of water supply and method of sewage disposal requirements are hereby specifically and entirely reserved to the local jurisdictions.

(b) Notwithstanding any other provision of law, with respect to a building permit, grading permit, or other approval from a city or county building department for the rehabilitation of real property improvements that are or will be employee housing for agricultural employees, or from a city or county health department for the operation, construction, or repair of a water system or waste disposal system servicing employee housing for agricultural employees, all of the following processing requirements shall apply:

(1) The local building or health department shall have up to 60 calendar days to approve or deny a complete application or permit request accompanied by applicable fees, or a shorter time period if required by the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code). An application or permit request may be denied on procedural grounds only if the denial occurs within 30 calendar days and the denial includes an itemization of the procedural defects. An application or permit request may be denied on substantive grounds if the denial includes an itemization of all substantive defects.

(2) If the application or permit request is not approved or denied by the local building or health department within the period prescribed by paragraph (1), then the Department of Housing and Community Development may approve the application or permit request if it determines that the plans are consistent with all applicable building codes and health and safety requirements. At that time, the applicant may

initiate any work consistent with the application or permit approved pursuant to this subdivision. Upon completion of the work, any other state or local agency shall accept the improvements as if they had been approved by the local building or health department. However, if that other local agency identifies any defects that would have resulted in that agency's disapproval of the improvements or plans thereto, those defects may be identified by the agency and shall be corrected by the applicant. The local building or health department shall inspect the plans and improvements prior to and during rehabilitation and issue a certificate of completion if the work is consistent with the plans and all applicable building codes and health and safety requirements.

(c) Nothing in this section shall be construed to exempt an application or permit request from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) For purposes of this section, ''agricultural employee'' has the same meaning specified in subdivision (b) of Section 1140.4 of the Labor Code.

SEC. 2. Section 17055 of the Health and Safety Code is amended to read:

17055. (a) Any person residing in employee housing subject to this part may file an administrative complaint orally or in writing with the enforcement agency. The enforcement agency shall deliver a summary or copy of the complaint, by mail or in person, to the owner or operator, at the time of filing the complaint.

(b) If a civil action under this part has not been filed by the enforcement agency within 21 days after receipt of the complaint, the complainant may bring a civil action for injunctive or declaratory relief and appropriate statutory damages, civil penalties, actual damages, penalties, and other remedies which arise from any violation of this part, building standards published in the State Building Standards Code relating to employee housing, regulations adopted pursuant to this part, or conditions of the permit.

(c) In any civil action under this section, if the enforcement agency certifies that the employee housing is in compliance with this part, building standards published in the State Building Standards Code relating to employee housing, regulations adopted pursuant to this part, and conditions of the permit, no injunctive relief related to mandatory repairs shall be granted with respect to any alleged violation covered by the certificate.

(d) In any civil action brought by a private person or entity under this section, the private person or entity may be granted reasonable attorney's fees and costs, in addition to any other remedy granted, if the private person or entity prevails, and if the trier of fact finds that the violations

involve retaliation or are so extensive and of such a nature that the immediate health and safety of residents or the public is endangered or has been endangered.

(e) If a complainant alleges, and the court finds, that residents of the employee housing were in imminent peril as a result of serious violations of this part, the complainant may immediately proceed with the filing of a civil action without regard to the 21-day waiting period specified in subdivision (b).

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 703

An act to amend Sections 44227, 44253, 44274, 44274.2, and 44275.3 of, to add Sections 44270.3, 44270.4, 44274.1, and 44275.4 to, and to repeal Section 44274.4 of, the Education Code, relating to teacher credentialing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

On this date I have signed Assembly Bill No. 877 with a reduction.

This bill would make specified changes to the requirements governing the issuance of a California teaching credential to teachers who have been trained in other states, and the issuance of a professional services credential to school administrators who have been trained in other states. It would also authorize the Commission on Teacher Credentialing to contract for studies of teacher and administrator training requirements in other states.

The appropriation in this bill, however, is in excess of the amount needed for these studies. Therefore, I am reducing the appropriation contained in this bill by $150,000 to reflect the actual amount needed to conduct the studies of teacher and administrator training requirements in other states. The revised appropriation shall be $350,000.

GRAY DAVIS, Governor

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

SECTION 1. Section 44227 of the Education Code is amended to read:

44227. (a) The commission may approve any institution of higher education whose teacher education program meets the standards prescribed by the commission, to recommend to the commission the issuance of credentials to persons who have successfully completed those programs.

(b) Notwithstanding any provision of law to the contrary, the commission may approve for credit any coursework completed for credential purposes or for step increases in programs offered in California by out-of-state institutions of higher education that meet the requirements prescribed by Section 94761 only if the program of courses is offered by a regionally accredited institution and evidence of satisfactory evaluation by both that accrediting body and the Western Association of Schools and Colleges is submitted by the out-of-state institution to the commission for purposes of seeking approval of the program and any courses within that program to enable potential teachers to meet one or more requirements for a teaching credential in California.

SEC. 1.5. 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 Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 if the program of courses is offered by a regionally accredited institution and evidence of satisfactory evaluation by that accrediting body 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 to enable potential teachers to meet one or more requirements for a teaching credential in California.

SEC. 2. Section 44253 of the Education Code is amended to read:

44253. (a) The commission may issue a preliminary designated subjects teaching credential, for a period not to exceed two years, pending completion of the requirements in subdivisions (b) and (c).

(b) A course or examination on the provisions and principles of the United States Constitution.

(c) The applicant meets the requirements of this state for teacher fitness pursuant to Sections 44339, 44340, and 44341.

SEC. 3. Section 44270.3 is added to the Education Code, to read:

44270.3. Notwithstanding any provision of this chapter, the commission shall issue a preliminary services credential with a specialization in administrative services to an out-of-state trained administrator who meets all of the following requirements:

(a) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(b) Successfully passed the basic skills proficiency test administered pursuant to Section 44252.5.

(c) Completed a teacher preparation program at a regionally accredited institution of higher education, was issued an elementary, secondary, or special education teaching credential based upon that program, and served on that credential for at least three years.

(d) Completed an administrator preparation program at a regionally accredited institution of higher education and was issued, or qualified for, an administrative services credential based upon that program.

(e) Submitted fingerprint cards and met the requirements of California for teacher fitness pursuant to Sections 44339, 44340, and 44341.

SEC. 4. Section 44270.4 is added to the Education Code, to read:

44270.4. Notwithstanding any provision of this chapter, the commission shall issue a professional services credential with a specialization in administrative services to an out-of-state trained administrator who meets all of the following requirements:

(a) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(b) Successfully passed the basic skills proficiency test administered pursuant to Section 44252.5.

(c) Completed a teacher preparation program at a regionally accredited institution of higher education, was issued an elementary, secondary, or special education teaching credential based upon that program, and served on that credential for at least three years.

(d) Completed an administrator preparation program at a regionally accredited institution of higher education and was issued an administrative services credential based upon that program.

(e) Submitted to the commission a minimum of two rigorous performance evaluations, one in each of the applicant's two most recent years of service as an administrator, upon which the applicant received ratings of satisfactory or better.

(f) Successfully served as a public school administrator for at least three years or successfully completed an individual program of professional development that included intensive mentoring, assistance, and support as certified by the employing school district.

(g) Submitted fingerprint cards and met the requirements of California for teacher fitness pursuant to Sections 44339, 44340, and 44341.

SEC. 5. Section 44274 of the Education Code is amended to read:

44274. (a) The commission shall conduct periodic reviews, beginning in 1998, to determine whether any state has established teacher preparation standards that are at least comparable and equivalent to teacher preparation standards in California.

(b) When the commission determines, pursuant to subdivision (a), that the teacher preparation standards established by any state are at least comparable and equivalent to teacher preparation standards in California, the commission shall initiate negotiations with that state to provide reciprocity in teacher credentialing.

(c) The commission shall grant an appropriate credential to any applicant from another state who has completed teacher preparation that is at least comparable and equivalent to preparation that meets teacher preparation standards in California, as determined by the commission pursuant to this section, if the applicant has met the requirements of California for the basic skills proficiency test pursuant to subdivision (d) of Section 44275.3 and teacher fitness pursuant to Sections 44339, 44340, and 44341.

(d) No reciprocity agreement established pursuant to subdivision (b) shall exempt an out-of-state applicant from submitting an identification card pursuant to Section 44340 and obtaining a certificate of clearance, credential, permit, or certificate of eligibility from the commission.

(e) The commission shall issue credentials to out-of-state prepared teachers based on all of the following:

(1) Equivalent preparation received outside of this state.

(2) Equivalent reading instruction, as determined by the reviews conducted pursuant to Section 44274.1.

(3) Equivalent subject matter programs or credential emphasis programs, as determined by the reviews conducted pursuant to Section 44274.1.

SEC. 6. Section 44274.1 is added to the Education Code, to read:

44274.1. To remove unnecessary barriers for entry into teaching for teachers prepared in other states, the commission shall contract for reviews of areas of teacher preparation in other states, as specified in subdivisions (a) to (c), inclusive. The initial reviews shall commence in 2001. Supplemental reviews shall be conducted every three years after completion of the initial review. The purpose of the review is to maintain and utilize information to allow teachers prepared in other states to meet specified California requirements for multiple subject and single subject teaching credentials based upon out-of-state teacher preparation determined by the commission to be comparable and equivalent to the

preparation required in California. Reviews shall take place in all of the following areas of teacher preparation for the purpose of meeting the credential requirements pursuant to Section 44275.3:

(a) Subject matter programs or subject matter examinations pursuant to paragraph (5) of subdivision (b) of Section 44259.

(b) Reading instruction pursuant to paragraph (4) of subdivision (b) of Section 44259.

(c) Credential emphasis programs, including, but not limited to, emphasis programs to prepare teachers to work with English language learners.

SEC. 7. Section 44274.2 of the Education Code is amended to read:

44274.2. (a) Notwithstanding any provision of this chapter, the commission shall issue a five-year preliminary multiple subject teaching credential authorizing instruction in a self-contained classroom or a five-year preliminary single subject teaching credential authorizing instruction in departmentalized classes to any experienced out-of-state prepared teacher who meets all of the following requirements:

(1) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(2) Completed a teacher preparation program at a regionally accredited institution of higher education.

(3) In the case of an applicant for a five-year preliminary single subject teaching credential, completed an academic major in the subject area of the credential sought as determined by the commission.

(4) Earned a valid corresponding elementary or secondary teaching credential based upon the out-of-state teacher preparation program.

(5) Verified a minimum of three years of full-time teaching experience completed in another state in the subject of the credential sought.

(6) Submitted evidence of rigorous performance evaluations on which the applicant received ratings of satisfactory or better.

(b) A teacher shall pass the state basic skills proficiency test administered by the commission pursuant to Section 44252 within one year of the issuance date of the credential in order to be eligible to continue teaching pursuant to this section.

(c) The commission shall issue a professional clear multiple or single subject teaching credential to any applicant who provide verification of five or more years of teaching experience to meet the requirement of subdivision (a), and who documents, in a manner prescribed by the commission, that he or she fulfills each of the following requirements:

(1) The commission has issued to the applicant a preliminary five-year teaching credential pursuant to subdivision (a).

(2) The applicant has completed 150 clock hours of activities that contribute to his or her competence, performance, and effectiveness in

the education profession, and that assist the applicant in meeting or exceeding standards for professional preparation established by the commission.

(d) The commission shall issue a professional clear multiple or single subject teaching credential to any applicant who provide verification of three or four years of teaching experience to meet the requirement of subdivision (a), and who documents in a manner prescribed by the commission, that he or she fulfills each of the following requirements:

(1) The commission has issued to the applicant a preliminary five-year teaching credential pursuant to subdivision (a).

(2) The applicant has completed either of the following:

(A) A program of beginning teacher support and assessment established pursuant to Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 24.

(B) An alternative program of beginning teacher induction that the commission determines, in conjunction with the Superintendent of Public Instruction, meets state standards for teacher induction.

(e) The commission shall issue a five-year preliminary specialist instruction credential authorizing instruction of pupils with disabilities to any applicant who has not been awarded a credential pursuant to subdivision (b) of Section 44275.3 and who fulfills all of the following requirements:

(1) A baccalaureate or higher degree from a regionally accredited institution of higher education.

(2) Completion of a professional preparation program in the requested education specialist category.

(3) A valid corresponding special education credential from another state.

(4) A minimum of three years of full-time teaching experience in the subject of the credential sought.

(5) Submission of evidence of rigorous performance evaluations on which the applicant received ratings of satisfactory or better.

(6) Passage of the state basic skills proficiency test, administered by the commission, pursuant to Section 44252, within one year of the issuance date of the credential.

(f) The commission shall issue a professional clear instruction credential to any applicant who fulfills the requirements for the professional clear Level II Education Specialist Instruction Credential, as established by the commission.

SEC. 8. Section 44274.4 of the Education Code is repealed.

SEC. 9. Section 44275.3 of the Education Code is amended to read:

44275.3. Notwithstanding any other provision of law:

(a) It is the intent of the Legislature that both of the following occur:

(1) 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.

(2) That any and all teachers hired in California pursuant to this section fully meet the requirements of the State of California, or requirements deemed to be equivalent.

(b) Notwithstanding any other provision of this chapter, the commission shall issue a five-year preliminary multiple subject or single subject teaching credential or a five-year preliminary education specialist credential to any out-of-state prepared teacher who meets all of the following requirements:

(1) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(2) Completed a teacher preparation program at a regionally accredited institution of higher education.

(3) Successfully completes any criminal background check conducted pursuant to Sections 44339, 44340, and 44341 for credentialing purposes.

(4) Earned or qualified for a corresponding elementary, secondary, or special education teaching credential based upon the out-of-state teacher preparation program. The area of concentration of the special education credential program completed out of state shall correspond with the areas of concentration for the California credential awarded.

(c) An out-of-state prepared teacher who has been issued a California five-year preliminary multiple subject, single subject, or education specialist teaching credential shall pass the state basic skills proficiency test, administered by the commission pursuant to Section 44252, within one year of the issuance date of the credential in order to be eligible to continue teaching pursuant to this section.

(d) The commission shall issue a professional clear credential to an out-of-state prepared teacher who has met the requirements in subdivision (b) and who meets the following requirements:

(1) Passage of the state basic skills proficiency test administered by the commission pursuant to Section 44252.

(2) Demonstration of subject matter competence by completion of coursework or an examination approved by the commission pursuant to paragraph (5) of subdivision (b) of Section 44259. Completion of subject matter in another state that has been determined by the commission to be comparable or equivalent pursuant to paragraph (1) of subdivision (a) of Section 44274.1 shall meet this requirement.

(3) Completion of a course, or for multiple subject credentials, a course or an examination, on the various methods of teaching reading pursuant to paragraph (4) of subdivision (b) of Section 44259. Completion of coursework in another state determined by the

commission to be comparable and equivalent pursuant to paragraph (2) of subdivision (a) of Section 44274.1 shall meet this requirement.

(4) Completion of a course or examination on the provisions and principles of the United States Constitution pursuant to paragraph (6) of subdivision (b) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(5) Completion of the study of health education pursuant to subparagraph (A) of paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(6) Completion of study and field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(7) Completion of the study of computer based technology through demonstration by course or examination of basic competence in the use of computers in the classroom, and study of advanced computer based technology, including the uses of technology in educational settings pursuant to subparagraph (C) of paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(8) Completion of a fifth-year program at a regionally accredited institution of higher education, except that the commission shall eliminate this requirement for any candidate who has completed an induction program for beginning teachers.

(9) A teacher holding a specialist credential pursuant to this section shall complete the requirements for nonspecial education pedagogy and a supervised field experience program in general education pursuant to Section 44265.

(10) 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, and the requirements specified in this subdivision.

SEC. 10. Section 44275.4 is added to the Education Code, to read:

44275.4. Notwithstanding any other provision of law:

(a) It is the intent of the Legislature that both of the following occur:

(1) That this section provide flexibility to enable school districts to recruit credentialed elementary, secondary, and special education teachers prepared in countries other than the United States to relocate temporarily or permanently to this state.

(2) That any and all teachers prepared in countries other than the United States who are granted a California teaching credential pursuant to this section fully meet the requirements of this state.

(b) Coursework, programs, or degrees completed at an institution of higher education outside of the United States are acceptable toward certification when the Commission on Teacher Credentialing or an evaluating agency approved by the commission has determined that the institution's coursework, programs, or degrees are equivalent to those offered by a regionally accredited institution in the United States. The commission reserves the right to accept or reject an approved evaluating agency's determination. Notwithstanding any other provision of this chapter, the commission shall issue a five-year preliminary multiple subject teaching credential, a five-year preliminary single subject teaching credential, or a five-year preliminary education specialist credential to a teacher prepared in a country other than the United States who meets all of the following requirements:

(1) The teacher holds or is eligible for a credential from another country that required a baccalaureate or higher degree determined to be equivalent to those offered by a regionally accredited institution in the United States and completion of a professional preparation program approved by the appropriate agency in the country where the program was completed that requires the teacher to meet requirements equivalent to the multiple or single subject teaching credential requirements in Section 44259 or the special education credential requirements described in Section 44265. The area of concentration of the special education credential program completed in a country other than the United States shall correspond with the areas of concentration for the California credential awarded.

(2) The teacher successfully completes a criminal background check conducted pursuant to Sections 44339, 44340, and 44341 for credentialing purposes.

(c) A teacher prepared in a country other than the United States who has been issued by the commission a five-year preliminary multiple subject, single subject, or education specialist teaching credential shall pass the state basic skills proficiency test, administered by the commission pursuant to Section 44252, within one year of the issuance date of the credential in order to be eligible to continue teaching pursuant to this section.

(d) The commission shall issue a professional clear credential to a teacher prepared in a country other than the United States who has met the requirements in subdivisions (b) and (c) and who meets the following requirements:

(1) Demonstration of subject matter competence by completion of coursework or an examination approved by the commission pursuant to paragraph (5) of subdivision (b) of Section 44259.

(2) Completion of a course, or for multiple subject credentials, a course or an examination, on the various methods of teaching reading pursuant to paragraph (4) of subdivision (b) of Section 44259. Completion of coursework in another state or country determined by the commission to be comparable and equivalent shall meet this requirement.

(3) Completion of a course or examination on the provisions and principles of the United States Constitution pursuant to paragraph (6) of subdivision (b) of Section 44259. Completion of coursework in another state or country determined by the commission to be comparable and equivalent shall meet this requirement.

(4) Completion of the study of health education pursuant to subparagraph (A) of paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state or country determined by the commission to be comparable and equivalent shall meet this requirement.

(5) Completion of study and field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs. Completion of coursework in another state or country determined by the commission to be comparable and equivalent shall meet this requirement.

(6) Completion of the study of computer-based technology through demonstration by course or examination of basic competence in the use of computers in the classroom, and study of advanced computer-based technology including the uses of technology in educational settings pursuant to paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state or country determined by the commission as comparable and equivalent shall meet this requirement.

(7) Completion of a fifth-year program at an institution of higher education determined by the commission to offer equivalent programs and degrees to those offered in the United States, except that the commission shall eliminate this requirement for any candidate who has completed an induction program for beginning teachers.

(8) A teacher holding a specialist credential pursuant to this section shall complete the requirements for nonspecial education pedagogy and a supervised field experience program in general education pursuant to Section 44265.

(9) 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 and the requirements specified in this subdivision and subdivision (e).

SEC. 11. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Commission on Teacher Credentialing for the purpose of contracting for the periodic reviews required pursuant to subdivision (a) of Section 44274. It is the intent of the Legislature that funding be provided in the annual Budget Act to update each of the periodic reviews required pursuant to subdivision (a) of Section 44274 on a three-year cycle, commencing in 2004.

SEC. 12. Section 1.5 of this bill incorporates amendments to Section 44227 of the Education Code proposed by both this bill and AB 2339. 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 44227 of the Education Code, and (3) this bill is enacted after AB 2339, in which case Section 1 of this bill shall not become operative.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to help address the critical shortage of qualified teachers in California, it is necessary to qualify out-of-state teachers to teach in this state, and it is therefore necessary that this act take effect immediately.

CHAPTER 704

An act relating to child care, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. (a) The sum of forty-two million dollars ($42,000,000) is hereby appropriated from the General Fund to the State Department of Education for the purposes of funding, on a one-time basis, the following activities related to child care and development services:

(1) Expansion of child care facilities in state-subsidized centers through the purchase of portable facilities or renovation and remodeling of existing space through the Child Care Facilities Revolving Fund established pursuant to Section 8278.3.

(2) Grants for repairs and modifications to existing state-subsidized child care facilities to comply with health and safety and other licensing requirements and the federal Americans With Disabilities Act, and to increase inclusion of children with disabilities.

(3) Grants for equipment and instructional materials for state-subsidized child care providers, including those necessary to increase the inclusion of children with disabilities. Any grants for instructional materials shall be for the purpose of purchasing materials aligned with either the state's academic content standards for kindergarten and grades 1 to 12, inclusive, or the state's prekindergarten learning and development guidelines for preschool age children.

(4) Grants for state-subsidized child care providers to bring playground equipment into compliance with regulatory requirements.

(b) It is intended that the State Department of Education not impose traditional limits on grant amounts or on the number of grants to child care providers for purposes of paragraphs (2), (3), or (4) of subdivision (a), in order to maximize service to children where need is demonstrated. The State Department of Education shall give priority in the allocation of funds pursuant to subdivision (a) to underserved areas and to expanding capacity to serve disabled children.

(c) (1) Funds appropriated pursuant to the act adding this section shall not be available for expenditure until an allocation plan is submitted by the State Department of Education to the Department of Finance and the Department of Finance approves the plan. The allocation plan shall include, but is not limited to, the amounts of funding that will be set aside for each of the purposes specified in subdivision (a), specific criteria for ensuring that priority is given to underserved areas, and specific criteria for expanding child care capacity to serve disabled children.

(2) The State Department of Education shall report to the Legislature and the Department of Finance on or before September 1 of each fiscal year, commencing with September 1, 2001, and for three years thereafter, on the implementation of the allocation plan described in paragraph (2). The report shall include the numbers of applications and funding by type of use, the child care capacity generated, and the amount of funds remaining for allocation.

(d) (1) The Department of Finance may consider and approve an amount equal to a maximum of 30 percent of the funds appropriated pursuant to subdivision (a), as determined by the State Department of Education, to be granted to local planning councils or resource and referrals agencies for purposes of increasing the capacity of nonstate subsidized child care providers to serve disabled children in child care settings that meet their developmental needs, consistent with the intent of the Child Care and Development Services Act pursuant to Chapter 2

(commencing with Section 8200) of Part 6. A local planning council or resource and referral agency may expend funds granted to it pursuant to this subdivision for any of the following:

(A) To contract for various purposes that may include, but are not limited to, providing training and technical assistance to child care and development providers, developing local plans, and conducting awareness and outreach, provided that the activities contracted for further the purposes of this subdivision.

(B) To purchase or lease portable accessibility enhancements that may be temporarily loaned or leased to nonstate subsidized child care and development providers to provide access to disabled children.

(C) To establish a direct loan program to nonstate subsidized child care and development providers for purposes that may include acquisition of physical improvements, equipment, and instructional materials to increase the providers' ability to serve disabled children.

(2) Any proposed allocations subject to this subdivision shall include a detailed description of and justification for the features of the program and shall include the specific uses of the funds that may be authorized, the amount and range of loan amounts, fiscal accountability requirements for administering agencies including loan repayments, and loan requirements for child care providers that assure the funds are utilized to efficiently increase services to children receiving subsidies through state alternative payment programs, including those serving CalWORKs populations.

(e) The Legislature finds and declares that funds allocated for purposes of subdivision (d) serve an essential educational purpose as a resource for public elementary and secondary schools and are intended to the educational mission of school districts and further the education of public school pupils and others by providing early childhood development for school readiness. It is, therefore, the intent of the Legislature that, notwithstanding Section 42102 of the Education Code, the appropriation made by subdivision (a), for purposes of subdivisions (a) and (d), shall be counted toward the state minimum funding obligation of the public school system under Section 8 of Article XVI of the California Constitution.

(f) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be ''General Fund revenue 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 from General Fund proceeds of taxes appropriated pursuant to Article XIII B,'' as defined in subdivision (e) of Section 41202 of the Education Code for the 2000–01 fiscal year.

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

In order to provide necessary funding for child care purposes, it is necessary that this act take effect immediately.

CHAPTER 705

An act to amend Sections 25010, 25019, 25102, and 29530 of, and to add Sections 25023, 25209, and 25508.5 to, the Corporations Code, relating to securities.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 25010 of the Corporations Code is amended to read:

25010. ''Issuer'' means any person who issues or proposes to issue any security, except that:

(a) With respect to certificates of deposit, voting trust certificates or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, ''issuer'' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued. However, with respect to equipment-trust certificates or like securities, ''issuer'' means the person by whom the equipment or property is or is to be used.

(b) With respect to certificates of interest or participation in oil, gas or mining titles or leases or in payments out of production under those titles or leases, ''issuer'' means the person or persons in active control of the exploration or development of the property who sell those interests or participations or payments or any person or persons who subdivide and sell those interests or participations or payments. The determination of the person or persons in active control of the exploration or development of the property shall be made on the basis of the actual relationship of the parties and not on the basis of the legal designation of a person's interest.

(c) With respect to a fractional or pooled interest in a viatical or life settlement contract, ''issuer'' means the person who creates, for the purposes of sale, the fractional or pooled interest. In the case of a viatical or life settlement contract that is not fractionalized or pooled, ''issuer'' means the person effecting the transactions with the investors in those contracts.

(d) In the case of an unincorporated association which provides by its articles for limited liability of any or all of its members, or in the case of a trust, committee, or other legal entity, the trustees or members thereof shall not be individually liable as issuers of any security issued by the association, trust, committee, or other legal entity.

SEC. 2. Section 25019 of the Corporations Code is amended to read:

25019. ''Security'' means any note; stock; treasury stock; membership in an incorporated or unincorporated association; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; viatical settlement contract or a fractionalized or pooled interest therein; life settlement contract or a fractionalized or pooled interest therein; voting trust certificate; certificate of deposit for a security; interest in a limited liability company and any class or series of those interests (including any fractional or other interest in that interest), except a membership interest in a limited liability company in which the person claiming this exception can prove that all of the members are actively engaged in the management of the limited liability company; provided that evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under that title or lease; put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof); or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; any beneficial interest or other security issued in connection with a funded employees' pension, profit sharing, stock bonus, or similar benefit plan; or, in general, any interest or instrument commonly known as a ''security''; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the foregoing are securities whether or not evidenced by a written document. ''Security'' does not include: (1) any beneficial interest in any voluntary inter vivos trust

which is not created for the purpose of carrying on any business or solely for the purpose of voting, or (2) any beneficial interest in any testamentary trust, or (3) any insurance or endowment policy or annuity contract under which an insurance company admitted in this state promises to pay a sum of money (whether or not based upon the investment performance of a segregated fund) either in a lump sum or periodically for life or some other specified period, or (4) any franchise subject to registration under the Franchise Investment Law (Division 5 (commencing with Section 31000)), or exempted from registration by Section 31100 or 31101.

SEC. 3. Section 25023 is added to the Corporations Code, to read:

25023. (a) Except as provided in subdivision (b), ''viatical settlement contract'' means an agreement as defined in paragraph (1) of subdivision (a) of Section 10113.1 of the Insurance Code and ''life settlement contract'' means an agreement, other than a viatical settlement contract, for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of a life insurance policy or certificate for consideration that is less than the expected death benefit of the life insurance policy or certificate.

(b) ''Viatical settlement contract'' and ''life settlement contract'' do not include any of the following:

(1) The assignment, transfer, sale, devise, or bequest of a death benefit, life insurance policy, or certificate of insurance by the insured or the original owner to any person if the assignment, transfer, sale, devise, or bequest (A) is not accompanied by the publication of any advertisement and (B) is not effected by or through a broker-dealer (Section 25004).

(2) The assignment of a life insurance policy to a bank, savings bank, savings association, credit union, or other lender (either licensed or not required to be licensed) as collateral for a loan, or to a stop-loss insurer or reinsurer.

(3) The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with the insurance laws of this state.

(4) The assignment, transfer, sale, devise or bequest of any undivided death benefit, life insurance policy, or certificate of insurance by an entity licensed pursuant to Section 10113.2 of the Insurance Code, or a viatical or life settlement provider licensed from another state, to one individual or entity, provided that the individual or entity represents that the individual or entity is purchasing for its own account (or trust account, if the entity is a trustee) and not with a view to or for sale in connection with a distribution of the individual death benefit, life insurance policy, or certificate of insurance.

SEC. 4. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to the offer if (1) the agreement contains substantially the following provision: ''The sale of the securities that are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of the securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt''; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of the securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100, or 25105.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to the offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of the securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) that meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or managers (as appointed or elected by the members) if the offeror is a limited liability company, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director, or affiliate of the issuer, or manager (as appointed or elected by the members) if the issuer is a limited liability company, and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation, or other organization that was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision. However, the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of the corporation outstanding that is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

(1) The offer and sale of the stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(2) The consideration to be received by the issuer for the stock to be issued consists of any of the following:

(A) Only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and the enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of the enterprise immediately prior to the proposed issuance was in the same proportions as the shares of stock are to be issued.

(B) Only cash or cancellation of indebtedness for money borrowed, or both, upon the initial organization of the issuer, provided all of the stock is issued for the same price per share.

(C) Only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders.

(D) In a case where after the proposed issuance there will be only one owner of the stock of the issuer, only any legal consideration.

(3) No promotional consideration has been given, paid, or incurred in connection with the issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer for services rendered in connection with the founding or organizing.

(4) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, is filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer. That notice shall contain an opinion of the member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. However, the failure to file the notice as required by this subdivision and the rules of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice within the time specified by this subdivision shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. The notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in the form that the commissioner by rule prescribes, appointing the commissioner or his or her successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit,

action, or proceeding against it or its successor that arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that the consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (A) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (B) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the further time as the court allows.

(5) Each purchaser represents that the purchaser is purchasing for the purchaser's own account, or a trust account if the purchaser is a trustee, and not with a view to or for sale in connection with any distribution of the stock.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation that has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued the stock.

All stock issued by a corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session that required the issuer to have stamped or printed prominently on the face of the stock certificate a legend in a form prescribed by rule of the commissioner restricting transfer of the stock in a manner provided for by that rule shall not be subject to the transfer restriction legend requirement and, by operation of law, the corporation is authorized to remove that transfer restriction legend from the certificates of those shares of stock issued by the corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or other institutional investor or governmental agency or instrumentality that the commissioner may designate by rule, whether the purchaser is acting for

itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of the corporation that after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer, provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if either of the following apply:

(1) All of the purchasers meet one of the following requirements:

(A) Are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged).

(B) Are persons described in clause (1) of subdivision (i).

(C) Have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing, or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded).

(2) The security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by the bank, provided that each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law that has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to the right, if the transaction, had it involved an offer or sale of the security subject to the right by the person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus, or employee stock ownership plan, provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer, or any other lender.

(n) Any offer or sale of any security in a transaction, other than an offer or sale of a security in a rollup transaction, that meets all of the following criteria:

(1) The issuer is (A) a California corporation or foreign corporation that, at the time of the filing of the notice required under this subdivision, is subject to Section 2115, or (B) any other form of business entity, including without limitation a partnership or trust organized under the laws of this state. The exemption provided by this subdivision is not available to a ''blind pool'' issuer, as that term is defined by the commissioner, or to an investment company subject to the Investment Company Act of 1940.

(2) Sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser if each of the equity owners of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars ($5,000,000) according to its most recent audited financial statements.

(E) With respect to the offer and sale of one class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder thereof to at least the same voting rights as the issuer's one class of voting common stock, provided that the issuer has only one-class voting common stock outstanding upon consummation of the offer and sale, a natural person who, either individually or jointly with the person's spouse, (i) has a minimum net worth of two hundred fifty thousand dollars ($250,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars ($100,000) and reasonably expects gross income in excess of one hundred thousand dollars ($100,000) during the current tax year or (ii) has a minimum net worth of five hundred thousand dollars ($500,000). ''Net worth'' shall be determined exclusive of home, home furnishings, and automobiles.

Other assets included in the computation of net worth may be valued at fair market value.

Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional adviser, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction. The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subparagraph, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(4) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities are sold to, or a commitment to purchase is accepted from, the purchaser, a written offering disclosure statement that shall meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), and any other information as may be prescribed by rule of the commissioner, provided that the issuer shall not be obligated pursuant to this paragraph to provide this disclosure statement to a natural person qualified under Section 260.102.13 of Title 10 of the California Code of Regulations. The offer or sale of securities pursuant to a disclosure statement required by this paragraph that is in violation of Section 25401, or that fails to meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall not render unavailable to the issuer the claim of an exemption from Section 25110 afforded by this subdivision. This paragraph does not impose, directly or indirectly, any additional disclosure obligation with respect to any other exemption from qualification available under any other provision of this section.

(5) (A) A general announcement of proposed offering may be published by written document only, provided that the general announcement of proposed offering sets forth the following required information:

(i) The name of the issuer of the securities.

(ii) The full title of the security to be issued.

(iii) The anticipated suitability standards for prospective purchasers.

(iv) A statement that (I) no money or other consideration is being solicited or will be accepted, (II) an indication of interest made by a prospective purchaser involves no obligation or commitment of any kind, and, if the issuer is required by paragraph (4) to deliver a disclosure statement to prospective purchasers, (III) no sales will be made or commitment to purchase accepted until five business days after delivery of a disclosure statement and subscription information to the prospective purchaser in accordance with the requirements of this subdivision.

(v) Any other information required by rule of the commissioner.

(vi) The following legend: ''For more complete information about (Name of Issuer) and (Full Title of Security), send for additional information from (Name and Address) by sending this coupon or calling (Telephone Number).''

(B) The general announcement of proposed offering referred to in subparagraph (A) may also set forth the following information:

(i) A brief description of the business of the issuer.

(ii) The geographic location of the issuer and its business.

(iii) The price of the security to be issued, or, if the price is not known, the method of its determination or the probable price range as specified by the issuer, and the aggregate offering price.

(C) The general announcement of proposed offering shall contain only the information that is set forth in this paragraph.

(D) Dissemination of the general announcement of proposed offering to persons who are not qualified purchasers, without more, shall not disqualify the issuer from claiming the exemption under this subdivision.

(6) No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is a qualified purchaser.

(7) The issuer files a notice of transaction under this subdivision both (A) concurrent with the publication of a general announcement of proposed offering or at the time of the initial offer of the securities, whichever occurs first, accompanied by a filing fee, and (B) within 10 business days following the close or abandonment of the offering, but in no case more than 210 days from the date of filing the first notice. The first notice of transaction under subparagraph (A) shall contain an undertaking, in a form acceptable to the commissioner, to deliver any disclosure statement required by paragraph (4) to be delivered to prospective purchasers, and any supplement thereto, to the commissioner within 10 days of the commissioner's request for the information. The exemption from qualification afforded by this subdivision is unavailable if an issuer fails to file the first notice required under subparagraph (A) or to pay the filing fee. The commissioner has the authority to assess an administrative penalty of up to one thousand

dollars ($1,000) against an issuer that fails to deliver the disclosure statement required to be delivered to the commissioner upon the commissioner's request within the time period set forth above. Neither the filing of the disclosure statement nor the failure by the commissioner to comment thereon precludes the commissioner from taking any action deemed necessary or appropriate under this division with respect to the offer and sale of the securities.

(o) An offer or sale of any security issued by a corporation or limited liability company pursuant to a purchase plan or agreement, or issued pursuant to an option plan or agreement, where the security at the time of issuance or grant is exempt from registration under the Securities Act of 1933, as amended, pursuant to Rule 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions of which are hereby incorporated by reference into this section, provided that (1) the terms of any purchase plan or agreement shall comply with Sections 260.140.42, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, (2) the terms of any option plan or agreement shall comply with Sections 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, and (3) the issuer files a notice of transaction in accordance with rules adopted by the commissioner no later than 30 days after the initial issuance of any security under that plan, accompanied by a filing fee as prescribed by subdivision (y) of Section 25608.

Offers and sales exempt pursuant to this subdivision shall be deemed to be part of a single, discrete offering and are not subject to integration with any other offering or sale, whether qualified under Chapter 2 (commencing with Section 25110), or otherwise exempt, or not subject to qualification.

(p) An offer or sale of nonredeemable securities to accredited investors (Section 28031) by a person licensed under the Capital Access Company Law (Division 3 (commencing with Section 28000) of Title 4). All nonredeemable securities shall be evidenced by certificates that shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule or order of the commissioner restricting transfer of the securities in the manner as the rule or order provides.

(q) Any offer or sale of any viatical or life settlement contract or fractionalized or pooled interest therein in a transaction that meets all of the following criteria:

(1) Sales of securities described in this subdivision are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser only if each of the equity owners

of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars ($5,000,000) according to its most recent audited financial statements.

(E) A natural person who, either individually or jointly with the person's spouse, (i) has a minimum net worth of one hundred fifty thousand dollars ($150,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars ($100,000) and reasonably expects gross income in excess of one hundred thousand dollars ($100,000) during the current tax year or (ii) has a minimum net worth of two hundred fifty thousand dollars ($250,000). ''Net worth'' shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional advisor, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction.

The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subdivision, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(2) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(3) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities described in this subdivision

are sold to, or a commitment to purchase is accepted from, the purchaser, the following information in writing:

(A) The name, principal business and mailing address, and telephone number of the issuer.

(B) The suitability standards for prospective purchasers as set forth in paragraph (1) of this subdivision.

(C) A description of the issuer's type of business organization and the state in which the issuer is organized or incorporated.

(D) A brief description of the business of the issuer.

(E) If the issuer retains ownership or becomes the beneficiary of the insurance policy, an audit report of an independent certified public accountant together with a balance sheet and related statements of income, retained earnings, and cash-flows that reflect the issuer's financial position, the results of the issuer's operations, and the issuer's cash-flows as of a date within 15 months before the date of the initial issuance of the securities described in this subdivision. The financial statements listed in this subparagraph shall be prepared in conformity with generally accepted accounting principles. If the date of the audit report is more than 120 days before the date of the initial issuance of the securities described in this subdivision, the issuer shall provide unaudited interim financial statements.

(F) The names of all directors, officers, partners, members, or trustees of the issuer.

(G) A description of any order, judgment, or decree that is final as to the issuing entity of any state, federal, or foreign country governmental agency or administrator, or of any state, federal or foreign country court of competent jurisdiction (i) revoking, suspending, denying, or censuring for cause any license, permit, or other authority of the issuer or of any director, officer, partner, member, trustee, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interest or equity securities of the issuer, to engage in the securities, commodities, franchise, insurance, real estate, or lending business or in the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (ii) permanently restraining, enjoining, barring, suspending, or censuring any such person from engaging in or continuing any conduct, practice, or employment in connection with the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (iii) convicting any such person of, or pleading nolo contendere by any such person to, any felony or misdemeanor involving a security, commodity, franchise, insurance, real estate, or loan, or any aspect of the securities, commodities, franchise, insurance, real estate, or lending business, or involving dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property, or (iv) holding any such person liable in a civil action involving breach

of a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property. This subparagraph does not apply to any order, judgment, or decree that has been vacated, overturned, or is more than 10 years old.

(H) Notice of the purchaser's right to rescind or cancel the investment and receive a refund pursuant to Section 25508.5.

(I) The name, address, and telephone number of the issuing insurance company, and the name, address, and telephone number of the state or foreign country regulator of the insurance company.

(J) The total face value of the insurance policy and the percentage of the insurance policy the purchaser will own.

(K) The insurance policy number, issue date, and type.

(L) If a group insurance policy, the name, address, and telephone number of the group, and, if applicable, the material terms and conditions of converting the policy to an individual policy, including the amount of increased premiums.

(M) If a term insurance policy, the term and the name, address, and telephone number of the person who will be responsible for renewing the policy if necessary.

(N) That the insurance policy is beyond the state statute for contestability and the reason therefor.

(O) The insurance policy premiums and terms of premium payments.

(P) The amount of the purchaser's moneys that will be set aside to pay premiums.

(Q) The name, address, and telephone number of the person who will be the insurance policy owner and the person who will be responsible for paying premiums.

(R) The date on which the purchaser will be required to pay premiums and the amount of the premium, if known.

(S) A statement to the effect that any projected rate of return to the purchaser from the purchase of a viatical or life settlement contract or a fractionalized or pooled interest therein is based on an estimated life expectancy for the person insured under the life insurance policy; that the return on the purchase may vary substantially from the expected rate of return based upon the actual life expectancy of the insured that may be less than, equal to, or may greatly exceed the estimated life expectancy; and that the rate of return would be higher if the actual life expectancy were less than, and lower if the actual life expectancy were greater than the estimated life expectancy of the insured at the time the viatical or life settlement contract was closed.

(T) A statement that the purchaser should consult with his or her tax advisor regarding the tax consequences of the purchase of the viatical or life settlement contract or fractionalized or pooled interest therein and, if the purchaser is using retirement funds or accounts for that purchase,

whether or not any adverse tax consequences might result from the use of those funds for the purchase of that investment.

(U) Any other information as may be prescribed by rule of the commissioner.

SEC. 5. Section 25209 is added to the Corporations Code, to read:

25209. Section 25210 shall not apply to an agent of an issuer when engaged in transactions exempted by subdivision (q) of Section 25102, provided that the agent is a life agent licensed in California or in the state of domicile of the purchaser.

SEC. 6. Section 25508.5 is added to the Corporations Code, to read:

25508.5. In addition to any other rights provided for under this division, including, but not limited to, Sections 25501 and 25506, or otherwise, a person who purchases a viatical or life settlement contract or a fractionalized or pooled interest therein may rescind or cancel the purchase for any reason. The person may rescind or cancel the purchase at any time before seven calendar days after the date the person remits the required consideration to the issuer or the issuer's agent by giving written notice of rescission or cancellation to the issuer or the issuer's agent. No specific form is required for the rescission or cancellation. The notice is effective when personally delivered, deposited in the United States mail, or deposited with a commercial courier or delivery service. The issuer shall refund all the person's money within seven calendar days after receiving the notice of rescission or cancellation.

SEC. 7. Section 29530 of the Corporations Code is amended to read:

29530. (a) The prohibitions in Section 29520 shall not apply to any transaction offered by and in which any of the following persons (or any employee, officer, or director thereof acting solely in that capacity) is the purchaser or seller:

(1) A person registered with the Commodity Futures Trading Commission as a futures commission merchant or as a leverage transaction merchant whose activities require registration.

(2) A person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by, a person referred to in subdivision (a).

(3) A person who is a member of a contract market designated by the Commodity Futures Trading Commission (or any clearinghouse thereof) when the transaction at issue requires membership in and is subject to the regulatory jurisdiction of that contract market.

(4) A financial institution.

(5) A broker-dealer licensed under Section 25211, or exempt from licensure under Section 25200, when engaging in activities subject to the exclusive regulatory jurisdiction of the Commodity Futures Trading Commission.

(6) A person licensed pursuant to Chapter 14 (commencing with Section 1800) of Division 1 of the Financial Code to receive money for transmittal to foreign countries if (A) the license has not expired or been surrendered, suspended, or revoked, (B) the licensed person has a tangible net worth of at least 3 million dollars ($3,000,000) according to its audited financial statements prepared by an independent certified public accountant for each of the immediately preceding three fiscal years, and (C) pursuant to the provisions of subdivision (b) of Section 29531, the licensed person issues and a purchaser receives a certificate, document of title, confirmation, or other instrument evidencing that the purchased quantity of precious metals or foreign currencies has been delivered to a depository which is a financial institution located in a state of the United States.

(b) The exemption provided by subdivision (a) shall not apply to any transaction or activity which is prohibited by the Commodity Exchange Act or CFTC Rule.

CHAPTER 706

An act to add Article 3.5 (commencing with Section 1358.1) to Chapter 2.2 of Division 2 of, and to repeal Article 3.5 (commencing with Section 1358) of Chapter 2.2 of Division 2 of, the Health and Safety Code, and to add Article 6 (commencing with Section 10192.1) to Chapter 1 of Part 2 of Division 2 of, and to repeal Article 6 (commencing with Section 10192.05) of Chapter 1 of Part 2 of Division 2 of, the Insurance Code, relating to Medicare supplement insurance.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Article 3.5 (commencing with Section 1358) of Chapter 2.2 of Division 2 of the Health and Safety Code is repealed.

SEC. 2. Article 3.5 (commencing with Section 1358.1) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 3.5. Additional Requirements for Medicare Supplement Contracts

1358.1. Every health care service plan that offers any contract that primarily or solely supplements Medicare or that is advertised or represented as a supplement to Medicare, shall, in addition to complying

with this chapter and rules of the director, comply with this article. The basic health care services required to be provided pursuant to Sections 1345 and 1367 shall not be included in Medicare supplement contracts subject to this article, to the extent that California is required to disallow coverage for these health care services under the federal Medicare supplement standardization requirements set forth in Section 1882 of the federal Social Security Act (42 U.S.C.A. Sec. 1395ss).

1358.2. The purpose of this article is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement contracts, to facilitate public understanding and comparison of those contracts, to eliminate provisions contained in those contracts that may be misleading or confusing in connection with the purchase of the contracts or with the settlement of claims, and to provide for full disclosures in the sale of Medicare supplement contracts to persons eligible for Medicare.

1358.3. (a) Except as otherwise provided in this section or in Sections 1358.7, 1358.12, 1358.13, 1358.16, and 1358.21, this article shall apply to all group and individual Medicare supplement contracts advertised, solicited, or issued for delivery in this state on or after January 1, 2001.

(b) This article shall not apply to a contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

(c) This article shall not apply to Medicare supplement policies or certificates subject to Article 6 (commencing with Section 10192.1) of Chapter 1 of Part 1 of Division 2 of the Insurance Code.

1358.4. For the purposes of this article, the following terms have the following meanings:

(a) ''Applicant'' means:

(1) An individual enrollee who seeks to contract for health coverage, in the case of an individual Medicare supplement contract.

(2) An enrollee who seeks to obtain health coverage through a group, in the case of a group Medicare supplement contract.

(b) ''Bankruptcy'' means that situation in which a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

(c) ''Continuous period of creditable coverage'' means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

(d) (1) ''Creditable coverage'' means, with respect to an individual, coverage of the individual provided under any of the following:

(A) Any individual or group contract, policy, certificate, or program that is written or administered by a health care service plan, disability insurer, 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.

(B) Part A or B of Title XVIII of the federal Social Security Act (Medicare).

(C) Title XIX of the federal Social Security Act (medicaid), other than coverage consisting solely of benefits under Section 1928 of that act.

(D) Chapter 55 of Title 10 of the United States Code (CHAMPUS).

(E) A medical care program of the Indian Health Service or of a tribal organization.

(F) A state health benefits risk pool.

(G) A health plan offered under Chapter 89 of Title 5 of the United States Code (Federal Employees Health Benefits Program).

(H) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the federal Public Health Service Act, as amended by Public Law 104-191, the federal Health Insurance Portability and Accountability Act of 1996.

(I) A health benefit plan under Section 5(e) of the federal Peace Corps Act (Section 2504(e) of Title 22 of the United States Code).

(J) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(K) Any other creditable coverage as defined by subsection (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(2) ''Creditable coverage'' shall not include one or more, or any combination of, the following:

(A) Coverage for accident-only or disability income insurance, or any combination thereof.

(B) Coverage issued as a supplement to liability insurance.

(C) Liability insurance, including general liability insurance and automobile liability insurance.

(D) Workers' compensation or similar insurance.

(E) Automobile medical payment insurance.

(F) Credit-only insurance.

(G) Coverage for onsite medical clinics.

(H) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(3) ''Creditable coverage'' shall not include the following benefits if they are provided under a separate policy, certificate, or contract or are otherwise not an integral part of the plan:

(A) Limited scope dental or vision benefits.

(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(C) Other similar, limited benefits as are specified in federal regulations.

(4) ''Creditable coverage'' shall not include the following benefits if offered as independent, noncoordinated benefits:

(A) Coverage only for a specified disease or illness.

(B) Hospital indemnity or other fixed indemnity insurance.

(5) ''Creditable coverage'' shall not include the following if offered as a separate policy, certificate, or contract:

(A) Medicare supplemental health insurance as defined under Section 1882(g)(1) of the federal Social Security Act.

(B) Coverage supplemental to the coverage provided under Chapter 55 of Title 10 of the United States Code.

(C) Similar supplemental coverage provided to coverage under a group health plan.

(e) ''Employee welfare benefit plan'' means a plan, fund, or program of employee benefits as defined in Section 1002 of Title 29 of the United States Code (Employee Retirement Income Security Act).

(f) ''Insolvency'' means when an issuer, licensed to transact the business of a health care service plan in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

(g) ''Issuer'' means a health care service plan delivering, or issuing for delivery, Medicare supplement contracts in this state, but does not include entities subject to Article 6 (commencing with Section 10192.1) of Chapter 1 of Division 2 of the Insurance Code.

(h) ''Medicare'' means the federal Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended.

(i) ''Medicare+Choice Plan'' means a plan of coverage for health benefits under Medicare Part C and includes:

(1) Coordinated care plans that provide health care services, including, but not limited to, health care service plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organizations plans.

(2) Medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account.

(3) Medicare+Choice private fee-for-service plans.

(j) ''Medicare supplement contract'' means a group or individual plan contract of hospital and medical service associations or health care service plans, other than a contract issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C.A. Section 1395mm) or an issued contract under a demonstration project specified in Section 1395ss(g)(1) of Title 42 of the United States Code, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. ''Contract'' means ''Medicare supplement contract,'' unless the context requires otherwise.

(k) ''Secretary'' means the Secretary of the United States Department of Health and Human Services.

1358.5. (a) A contract shall not be advertised, solicited, or issued for delivery as a Medicare supplement contract unless the contract contains definitions or terms that conform to the requirements of this section.

(1) (A) ''Accident,'' ''accidental injury,'' or ''accidental means'' shall be defined to employ ''result'' language and shall not include words that establish an accidental means test or use words such as ''external, violent, visible wounds'' or other similar words of description or characterization.

(B) The definition shall not be more restrictive than the following: ''injury or injuries for which benefits are provided means accidental bodily injury sustained by the covered person that is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while coverage is in force.''

(C) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability, or similar law, unless prohibited by law.

(2) ''Benefit period'' or ''Medicare benefit period'' shall not be defined more restrictively than as defined in the Medicare program.

(3) ''Convalescent nursing home,'' ''extended care facility,'' or ''skilled nursing facility'' shall not be defined more restrictively than as defined in the Medicare program.

(4) (A) ''Health care expenses'' means expenses of health care service plans associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(B) ''Health care expenses'' shall not include any of the following:

(i) Home office and overhead costs.

(ii) Advertising costs.

(iii) Commissions and other acquisition costs.

(iv) Taxes.

(v) Capital costs.

(vi) Administrative costs.

(vii) Claims processing costs.

(5) ''Hospital'' may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

(6) ''Medicare'' shall be defined in the contract. ''Medicare'' may be substantially defined as ''The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended,'' or ''Title I, Part I of Public Law 89-97, as enacted by the 89th Congress and popularly known as the Health Insurance for the Aged Act, as amended,'' or words of similar import.

(7) ''Medicare eligible expenses'' shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(8) ''Physician'' shall not be defined more restrictively than as defined in the Medicare program.

(9) (A) ''Sickness'' shall not be defined more restrictively than as follows: ''sickness means illness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force.''

(B) The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

(b) Nothing in this section shall be construed as prohibiting any contract, by definitions or express provisions, from limiting or restricting any or all of the benefits provided under the contract, except in-area and out-of-area emergency services, to those health care services that are delivered by issuer, employed, owned, or contracting providers, and provider facilities, so long as the contract complies with the provisions of Sections 1358.14 and 1367 and with Section 1300.67 of the California Code of Regulations.

(c) Nothing in this section shall be construed as prohibiting any contract that limits or restricts any or all of the benefits provided under the contract in the manner contemplated in subdivision (b) from limiting its obligation to deliver services, and disclaiming any liability from any delay or failure to provide those services (1) in the event of a major disaster or epidemic or (2) in the event of circumstances not reasonably within the control of the issuer, such as the partial or total destruction of facilities, war, riot, civil insurrection, disability of a significant part of its health personnel, or similar circumstances so long as the provisions comply with the provisions of subdivision (h) of Section 1367.

1358.6. (a) (1) Except for permitted preexisting condition clauses as described in Sections 1358.7 and 1358.8, a contract shall not be advertised, solicited, or issued for delivery as a Medicare supplement contract if the contract contains definitions, limitations, exclusions, conditions, reductions, or other provisions that are more restrictive or limiting than that term as officially used in Medicare, except as expressly authorized by this article.

(2) No issuer may advertise, solicit, or issue for delivery any Medicare supplement contract with hospital or medical coverage if the contract contains any of the prohibited provisions described in subdivision (b).

(b) The following provisions shall be deemed to be unfair, unreasonable, and inconsistent with the objectives of this chapter and shall not be contained in any Medicare supplement contract:

(1) Any waiver, exclusion, limitation, or reduction based on or relating to a preexisting disease or physical condition, unless that waiver, exclusion, limitation, or reduction (A) applies only to coverage for specified services rendered not more than six months from the effective date of coverage, (B) is based on or relates only to a preexisting disease or physical condition defined no more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage, (C) does not apply to any coverage under any group contract, and (D) is approved in advance by the director. Any limitations with respect to a preexisting condition shall appear as a separate paragraph of the contract and be labeled ''Preexisting Condition Limitations.''

(2) Except with respect to a group contract subject to, and in compliance with, Section 1399.62, any provision denying coverage, after termination of the contract, for services provided continuously beginning while the contract was in effect, during the continuous total disability of the subscriber or enrollee, except that the coverage may be limited to a reasonable period of time not less than the duration of the contract benefit period, if any, and may be limited to the maximum benefits provided under the contract.

(c) A Medicare supplement contract in force shall not contain benefits that duplicate benefits provided by Medicare.

1358.7. A contract shall not be advertised, solicited, or issued for delivery as a Medicare supplement contract prior to January 1, 2001, unless it meets or exceeds requirements applicable pursuant to this code that were in effect prior to that date.

1358.8. The following standards are applicable to all Medicare supplement contracts advertised, solicited, or issued for delivery on or after January 1, 2001. A contract shall not be advertised, solicited, or

issued for delivery as a Medicare supplement contract unless it complies with these benefit standards.

(a) The following general standards apply to Medicare supplement contracts and are in addition to all other requirements of this article:

(1) A Medicare supplement contract shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The contract shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(2) A Medicare supplement contract shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement contract shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Prepaid or periodic charges may be modified to correspond with those changes.

(4) A Medicare supplement contract shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the covered person, other than the nonpayment of the prepaid or periodic charge.

(5) Each Medicare supplement contract shall be guaranteed renewable.

(A) The issuer shall not cancel or nonrenew the contract solely on the ground of health status of the individual.

(B) The issuer shall not cancel or nonrenew the contract for any reason other than nonpayment of the prepaid or periodic charge or misrepresentation of the risk by the applicant that is shown by the plan to be material to the acceptance for coverage. The contestability period for Medicare supplement contracts shall be two years.

(C) If a group Medicare supplement contract is terminated by the subscriber and is not replaced as provided under subparagraph (E), the issuer shall offer enrollees an individual Medicare supplement contract that, at the option of the enrollee, either provides for continuation of the benefits contained in the terminated contract or provides for benefits that otherwise meet the requirements of this subsection.

(D) If an individual is an enrollee in a group Medicare supplement contract and the individual membership in the group is terminated, the issuer shall either offer the enrollee the conversion opportunity described in subparagraph (C) or, at the option of the subscriber, shall offer the enrollee continuation of coverage under the group contract.

(E) If a group Medicare supplement contract is replaced by another group Medicare supplement contract purchased by the same subscriber, the issuer of the replacement contract shall offer coverage to all persons covered under the old group contract on its date of termination. Coverage under the new contract shall not result in any exclusion for preexisting conditions that would have been covered under the group contract being replaced.

(6) Termination of a Medicare supplement contract shall be without prejudice to any continuous loss that commenced while the contract was in force, but the extension of benefits beyond the period during which the contract was in force may be predicated upon the continuous total disability of the covered person, limited to the duration of the contract benefit period, if any, or to payment of the maximum benefits.

(7) (A) A Medicare supplement contract shall provide that benefits and prepaid or periodic charges under the contract shall be suspended at the request of the enrollee for the period, not to exceed 24 months, in which the enrollee has applied for and is determined to be entitled to medical assistance under Title XIX of the federal Social Security Act, but only if the enrollee notifies the issuer of the contract within 90 days after the date the individual becomes entitled to assistance.

(B) If suspension occurs and if the enrollee loses entitlement to medical assistance, the contract shall be automatically reinstituted, effective as of the date of termination of entitlement, as of the termination of entitlement if the enrollee provides notice of loss of entitlement within 90 days after the date of loss and pays the prepaid or periodic charge attributable to the period, effective as of the date of termination of entitlement.

(C) Reinstitution of coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions.

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension.

(iii) Shall provide for classification of prepaid or periodic charges on terms at least as favorable to the enrollee as the prepaid or periodic charge classification terms that would have applied to the enrollee had the coverage not been suspended.

(8) A Medicare supplement contract shall not be limited to coverage for a single disease or affliction.

(9) A Medicare supplement contract shall provide an examination period of 30 days after the receipt of the contract by the applicant for purposes of review, during which time the applicant may return the contract as described in subdivision (e) of Section 1358.17.

(10) A Medicare supplement contract shall additionally meet any other minimum benefit standards as established by the director.

(11) Within 30 days prior to the effective date of any Medicare benefit changes, an issuer shall file with the director, and notify its subscribers and enrollees of, modifications it has made to Medicare supplement contracts.

(A) The notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement contract.

(B) The notice shall inform each subscriber and enrollee as to when any adjustment in the prepaid or periodic charges will be made due to changes in Medicare benefits.

(C) The notice of benefit modifications and any adjustments to the prepaid or periodic charges shall be in outline form and in clear and simple terms so as to facilitate comprehension. The notice shall not contain or be accompanied by any solicitation.

(12) No modifications to existing Medicare supplement coverage shall be made at the time of, or in connection with, the notice requirements of this article except to the extent necessary to eliminate duplication of Medicare benefits and any modifications necessary under the contract to provide indexed benefit adjustment.

(b) With respect to the standards for basic (core) benefits common to all benefit plans, every issuer shall make available a contract including only the following basic ''core'' package of benefits to each prospective applicant. This ''core'' package of benefits shall be referred to as standardized Medicare supplement benefit plan ''A''. An issuer may make available to prospective applicants any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it.

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day to the 90th day, inclusive, in any Medicare benefit period.

(2) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Medicare diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the enrollee or subscriber for any balance.

(4) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced in accordance with federal regulations.

(5) Coverage for the coinsurance amount, or in the case of hospital outpatient services, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(c) The following additional benefits shall be included in Medicare supplement benefit plans B to J, inclusive, only as provided by Section 1358.9.

(1) With respect to the Medicare Part A deductible, coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) With respect to skilled nursing facility care, coverage for the actual billed charges up to the coinsurance amount from the 21st day to the 100th day, inclusive, in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) With respect to the Medicare Part B deductible, coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) With respect to 80 percent of the Medicare Part B excess charges, coverage for 80 percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(5) With respect to 100 percent of the Medicare Part B excess charges, coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(6) With respect to the basic outpatient prescription drug benefit, coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars ($1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(7) With respect to the extended outpatient prescription drug benefit, coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of three thousand dollars ($3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(8) With respect to medically necessary emergency care in a foreign country, coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a

calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, ''emergency care'' shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) With respect to the preventive medical care benefit, coverage for the following preventive health services:

(A) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (B) and patient education to address preventive health care measures.

(B) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(i) Fecal occult blood test or digital rectal examination, or both.

(ii) Mammogram.

(iii) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.

(iv) Pure tone, air only, hearing screening test, administered or ordered by a physician.

(v) Serum cholesterol screening every five years.

(vi) Thyroid function test.

(vii) Diabetes screening.

(C) Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster every 10 years.

(D) Any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars ($120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) With respect to the at-home recovery benefit, coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

(A) For purposes of this benefit, the following definitions shall apply:

(i) ''Activities of daily living'' include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) ''Care provider'' means a duly qualified or licensed home health aide or homemaker, or a personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) ''Home'' shall mean any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) ''At-home recovery visit'' means the period of a visit required to provide at-home recovery care, without any limit on the duration of the visit, except that each consecutive four hours in a 24-hour period of services provided by a care provider is one visit.

(B) With respect to coverage requirements and limitations, the following shall apply:

(i) At-home recovery services provided shall be primarily services that assist in activities of daily living.

(ii) The covered person's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to the following:

(I) No more than the number and type of at-home recovery visits certified as necessary by the covered person's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment.

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars ($40) per visit.

(III) One thousand six hundred dollars ($1,600) per calendar year.

(IV) Seven visits in any one week.

(V) Care furnished on a visiting basis in the insured's home.

(VI) Services provided by a care provider as defined in subparagraph (A).

(VII) At-home recovery visits while the covered person is covered under the policy or certificate and not otherwise excluded.

(VIII) At-home recovery visits received during the period the covered person is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit.

(C) Coverage is excluded for the following:

(i) Home care visits paid for by Medicare or other government programs.

(ii) Care provided by family members, unpaid volunteers, or providers who are not care providers.

(11) With respect to new or innovative benefits, an issuer may, with the prior approval of the director, offer contracts with new or innovative benefits in addition to the benefits provided in a contract that otherwise complies with the applicable standards. The new or innovative benefits

may include benefits that are appropriate to Medicare supplement contracts, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement contracts.

(d) A contract shall not contain any provision delaying the effective date of coverage beyond the first day of the month following the date of receipt by the issuer of the applicant's properly completed application, except that the effective date of coverage may be delayed until the 65th birthday of an applicant who is to become eligible for Medicare by reason of age if the application is received any time during the three months immediately preceding the applicant's 65th birthday.

1358.9. (a) An issuer shall make available to each prospective enrollee a contract form containing only the basic (core) benefits, as defined in subdivision (b) of Section 1358.8.

(b) No groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted by paragraph (11) of subdivision (c) of Section 1358.8 and by Section 1358.10.

(c) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans A to J, inclusive, listed in subdivision (e), and shall conform to the definitions in Section 1358.4. Each benefit shall be structured in accordance with the format provided in subdivisions (b) and (c) of Section 1358.8 and list the benefits in the order listed in subdivision (e). For purposes of this section, ''structure, language, and format'' means style, arrangement, and overall content of a benefit.

(d) An issuer may use, in addition to the benefit plan designations required in subdivision (c), other designations to the extent permitted by law.

(e) With respect to the makeup of benefit plans, the following shall apply:

(1) Standardized Medicare supplement benefit plan A shall be limited to the basic (core) benefit common to all benefit plans, as defined in subdivision (b) of Section 1358.8.

(2) Standardized Medicare supplement benefit plan B shall include only the following: the core benefit, plus the Medicare Part A deductible as defined in paragraph (1) of subdivision (c) of Section 1358.8.

(3) Standardized Medicare supplement benefit plan C shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), and (8) of subdivision (c) of Section 1358.8, respectively.

(4) Standardized Medicare supplement benefit plan D shall include only the following: the core benefit, plus the Medicare Part A deductible,

skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in paragraphs (1), (2), (8), and (10) of subdivision (c) of Section 1358.8, respectively.

(5) Standardized Medicare supplement benefit plan E shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in paragraphs (1), (2), (8), and (9) of subdivision (c) of Section 1358.8, respectively.

(6) Standardized Medicare supplement benefit plan F shall include only the following: the core benefit, plus the Medicare Part A deductible, the skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), (5), and (8) of subdivision (c) of Section 1358.8, respectively.

(7) Standardized Medicare supplement benefit high deductible plan F shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible plan F deductible. The covered expenses include the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), (5), and (8) of subdivision (c) of Section 1358.8, respectively. The annual high deductible plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan F policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan F deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on the calendar year, as adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

(8) Standardized Medicare supplement benefit plan G shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, 80 percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in paragraphs (1), (2), (4), (8), and (10) of Section 1358.8, respectively.

(9) Standardized Medicare supplement benefit plan H shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (6), and (8) of Section 1358.8, respectively.

(10) Standardized Medicare supplement benefit plan I shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in paragraphs (1), (2), (5), (6), (8), and (10) of subdivision (c) of Section 1358.8, respectively.

(11) Standardized Medicare supplement benefit plan J shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in paragraphs (1), (2), (3), (5), (7), (8), (9), and (10) of subdivision (c) of Section 1358.8, respectively.

(12) Standardized Medicare supplement benefit high deductible plan J shall consist of only the following: 100 percent of covered expenses following the payment of the annual high deductible plan J deductible. The covered expenses include the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit, and at-home recovery benefit as defined in paragraphs (1), (2), (3), (5), (7), (8), (9), and (10) of subdivision (c) of Section 1358.8, respectively. The annual high deductible plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan J policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on a calendar year, as adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

1358.10. (a) (1) This section shall apply to Medicare Select contracts, as defined in this section.

(2) A contract shall not be advertised as a Medicare Select contract unless it meets the requirements of this section.

(b) For the purposes of this section:

(1) ''Complaint'' means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

(2) ''Grievance'' means dissatisfaction expressed in writing by an individual covered by a Medicare Select contract with the

administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

(3) ''Medicare Select issuer'' means an issuer offering, or seeking to offer, a Medicare Select contract.

(4) ''Medicare Select contract'' means a Medicare supplement contract that contains restricted network provisions.

(5) ''Network provider'' means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits covered under a Medicare Select contract. ''Provider network'' means a grouping of network providers.

(6) ''Restricted network provision'' means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(7) ''Service area'' means the geographic area approved by the director within which an issuer is authorized to offer a Medicare Select contract.

(c) The director may authorize an issuer to offer a Medicare Select contract pursuant to Section 4358 of the federal Omnibus Budget Reconciliation Act (OBRA) of 1990 if the director finds that the issuer's Medicare Select contracts are in compliance with this chapter and if the director finds that the issuer has satisfied all of the requirements of this section.

(d) A Medicare Select issuer shall not issue a Medicare Select contract in this state until its plan of operation has been approved by the director.

(e) A Medicare Select issuer shall file a proposed plan of operation with the director in a format prescribed by the director. The plan of operation shall contain at least the following information:

(1) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration of all of the following:

(A) That services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and afterhour care. The hours of operation and availability of afterhour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

(B) That the number of network providers in the service area is sufficient, with respect to current and expected enrollees, as to either of the following:

(i) To deliver adequately all services that are subject to a restricted network provision.

(ii) To make appropriate referrals.

(C) There are written agreements with network providers describing specific responsibilities.

(D) Emergency care is available 24 hours per day and seven days per week.

(E) In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, that there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual covered under a Medicare Select contract.

This subparagraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select contract.

(2) A statement or map providing a clear description of the service area.

(3) A description of the grievance procedure to be utilized.

(4) A description of the quality assurance program, including all of the following:

(A) The formal organizational structure.

(B) The written criteria for selection, retention, and removal of network providers.

(C) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(5) A list and description, by specialty, of the network providers.

(6) Copies of the written information proposed to be used by the issuer to comply with subdivision (i).

(7) Any other information requested by the director.

(f) (1) A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the director prior to implementing the changes. Changes shall be considered approved by the director after 30 days unless specifically disapproved.

(2) An updated list of network providers shall be filed with the director at least quarterly.

(g) A Medicare Select contract shall not restrict payment for covered services provided by nonnetwork providers if:

(1) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition.

(2) It is not reasonable to obtain services through a network provider.

(h) A Medicare Select contract shall provide payment for full coverage under the contract for covered services that are not available through network providers.

(i) A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select contract to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and charges of the Medicare Select contract with both of the following:

(A) Other Medicare supplement contracts offered by the issuer.

(B) Other Medicare Select contracts.

(2) A description, including address, telephone number, and hours of operation, of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(3) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(4) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(5) A description of limitations on referrals to restricted network providers and to other providers.

(6) A description of the enrollee's rights to purchase any other Medicare supplement contract otherwise offered by the issuer.

(7) A description of the Medicare Select issuer's quality assurance program and grievance procedure.

(j) Prior to the sale of a Medicare Select contract, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subdivision (i) and that the applicant understands the restrictions of the Medicare Select contract.

(k) A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the enrollees. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(1) The grievance procedure shall be described in the contract and in the outline of coverage.

(2) At the time the contract is issued, the issuer shall provide detailed information to the enrollee describing how a grievance may be registered with the issuer.

(3) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decisionmakers who have authority to fully investigate the issue and take corrective action.

(4) If a grievance is found to be valid, corrective action shall be taken promptly.

(5) All concerned parties shall be notified about the results of a grievance.

(6) The issuer shall report no later than each March 31st to the director regarding its grievance procedure. The report shall be in a format prescribed by the director and shall contain the number of grievances

filed in the past year and a summary of the subject, nature, and resolution of those grievances.

(*l*) At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select contract the opportunity to purchase any Medicare supplement contract otherwise offered by the issuer.

(m) (1) At the request of an enrollee under a Medicare Select contract, a Medicare Select issuer shall make available to the enrollee the opportunity to purchase a Medicare supplement contract offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision, if a Medicare supplement contract of that nature is offered by the issuer. The issuer shall make the contracts available without regard to the health status of the enrollee and without requiring evidence of insurability after the Medicare Select contract has been in force for six months.

(2) For the purposes of this subdivision, a Medicare supplement contract will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select contract being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Medicare Part B excess charges.

(n) Medicare Select contracts shall provide for continuation of coverage in the event the secretary determines that Medicare Select contracts issued pursuant to this section should be discontinued due to either the failure of the Medicare Select program to be reauthorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each enrollee covered by a Medicare Select contract the opportunity to purchase any Medicare supplement contract offered by the issuer that has comparable or lesser benefits and that does not contain a restricted provider network provision, if a Medicare supplement contract of that nature is offered by the issuer. The issuer shall make the contracts available without regard to the health status of the enrollee and without requiring evidence of insurability after the Medicare Select contract has been in force for six months.

(2) For the purposes of this subdivision, a Medicare supplement contract will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select contract being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Medicare Part B excess charges.

(o) An issuer offering Medicare Select contracts shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select program. An issuer shall not issue a Medicare Select contract in this state until the contract has been approved by the director.

1358.11. (a) An issuer shall not deny or condition the offering or effectiveness of any Medicare supplement contract available for sale in this state, nor discriminate in the pricing of a contract because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a contract that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from an issuer shall be made available to all applicants who qualify under this subdivision without regard to age.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the director.

(c) Except as provided in subdivision (b) and Section 1358.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the enrollee received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she reaches age 65. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, ''employer-sponsored retiree health plan'' includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included covered persons.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the issuer.

(g) (1) An individual who was previously enrolled in, but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000. Within 30 days of January 1, 2000, health plans shall notify their former Medicare enrollees who were terminated during the period specified in paragraph (1) of the new open enrollment period. Health plan notices shall inform the terminated enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling and Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(4) Health plans that terminate Medicare enrollees shall notify those enrollees in the termination notice of the additional open enrollment period authorized by this subdivision. Health plan notices shall inform enrollees of the opportunity to secure advice and assistance from the

Health Insurance Counseling Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(h) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select contract, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy, certificate, or contract. An issuer that offers Medicare supplement contracts shall notify an enrollee of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

1358.12. (a) (1) With respect to the guaranteed issue of a Medicare supplement contract, eligible persons are those individuals described in subdivision (b) who apply to enroll under the contract not later than 63 days after the date of the termination of enrollment described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement contract.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement contract described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of the Medicare supplement contract because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under the Medicare supplement contract.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide all of those supplemental health benefits to the individual.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the director, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the director may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement contract and the enrollment ceases because of the following: the insolvency of the issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the contract; the issuer of the contract substantially violated a material provision of the contract; or the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the contract's provisions in marketing the contract to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement contract and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select contract.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement contract that has a benefit package classified as plan A, B, C, or F offered by any issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement contract in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a contract described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement contract offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the contract, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under subdivision (a). That notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the contract, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under

subdivision (a). That notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

1358.13. (a) An issuer shall comply with Section 1882(c)(3) of the federal Social Security Act (as enacted by Section 4081(b)(2)(C) of the federal Omnibus Budget Reconciliation Act of 1987 (OBRA), Public Law 100-203) by doing all of the following:

(1) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice.

(2) Notifying the participating physician or supplier and the beneficiary of the payment determination.

(3) Paying the participating physician or supplier directly.

(4) Furnishing, at the time of enrollment, each enrollee with a card listing the contract name, number, and a central mailing address to which notices respecting coverage from a Medicare carrier may be sent.

(5) Paying user fees established under Section 1395u(h)(3)(B) of Title 42 of the United States Code, for claim notices that are transmitted electronically or otherwise.

(6) Providing to the secretary, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(b) Compliance with the requirements set forth in subdivision (a) shall be certified on the Medicare supplement insurance experience reporting form provided by the director.

1358.14. (a) (1) (A) With respect to loss ratio standards, a Medicare supplement contract shall not be advertised, solicited, or issued for delivery unless the contract can be expected, as estimated for the entire period for which prepaid or periodic charges are computed to provide coverage, to return to subscribers and enrollees in the form of aggregate benefits under the contract, not including anticipated refunds or credits provided under the contract, at least 75 percent of the aggregate amount of charges earned in the case of group contracts, or at least 65 percent of the aggregate amount of charges earned in the case of individual contracts, on the basis of incurred claims or costs of health care services experience and earned prepaid or periodic charges for that period and in accordance with accepted actuarial principles and practices.

(B) Loss ratio standards shall be calculated on the basis of incurred health care expenses where coverage is provided by a health care service plan on a service rather than reimbursement basis, and earned prepaid or periodic charges shall be calculated for the period and in accordance with accepted actuarial principles and practices.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to prepaid or periodic charges comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(3) For purposes of applying paragraph (1) of subdivision (a) and paragraph (3) of subdivision (c) of Section 1358.15 only, contracts issued as a result of solicitations of individuals through the mail or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual contracts.

(b) (1) With respect to refund or credit calculations, an issuer shall collect and file with the director by May 31 of each year the data contained in the applicable reporting form required by the director (NAIC Appendix A) for each type of coverage in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type of contract offered by the issuer. For purposes of the refund or credit calculation, experience on contracts issued within the reporting year shall be excluded.

(3) For the purposes of this section, with respect to contracts advertised, solicited, or issued for delivery prior to January 1, 2001, the issuer shall make the refund or credit calculation separately for all individual contracts, including all group contracts subject to an individual loss ratio standard when issued, combined and all other group contracts combined for experience after January 1, 2001. The first report pursuant to paragraph (1) shall be due by May 31, 2003.

(4) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds ten dollars ($10). The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the secretary, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against prepaid or periodic charges due shall be made by September 30 following the experience year upon which the refund or credit is based.

(c) An issuer of Medicare supplement contracts shall file annually its prepaid or periodic charges and supporting documentation including ratios of incurred losses to earned prepaid or periodic charges by contract duration for approval by the director in accordance with the filing

requirements and procedures prescribed by the director. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which charges are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for contracts in force less than three years.

As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement contracts shall file with the director, in accordance with applicable filing procedures, all of the following:

(1) (A) Appropriate prepaid or periodic charge adjustments necessary to produce loss ratios as anticipated for the current charge for the applicable contracts. The supporting documents necessary to justify the adjustment shall accompany the filing.

(B) An issuer shall make prepaid or periodic charge adjustments necessary to produce an expected loss ratio under the contract to conform to minimum loss ratio standards for Medicare supplement contracts and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current charges by the issuer for the Medicare supplement contracts. No charge adjustment that would modify the loss ratio experience under the contract other than the adjustments described in this section shall be made with respect to a contract at any time other than upon its renewal date or anniversary date.

(C) If an issuer fails to make prepaid or periodic charge adjustments acceptable to the director, the director may order charge adjustments, refunds, or credits deemed necessary to achieve the loss ratio required by this section.

(2) Any appropriate contract amendments needed to accomplish the Medicare supplement contract modifications necessary to eliminate benefit duplications with Medicare. The contract amendments shall provide a clear description of the Medicare supplement benefits provided by the contract.

(d) (1) The director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a contract form issued before or after the effective date of January 1, 2001, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the director.

(2) The director may conduct a public hearing to gather information if the experience of the form filed under paragraph (1) of subdivision (b)

for the previous reporting period is not in compliance with the applicable loss ratio standard.

The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the director.

1358.145. (a) The calculation of actual or expected loss ratios shall be pursuant to the formula in subdivision (a) of Section 1358.14, and pursuant to definitions, procedures, and other provisions as may be deemed by the director, with due consideration of the circumstances of the particular issuer, to be fair, reasonable, and consistent with the objectives of this chapter.

(b) Each issuer shall submit to the department a copy of the calculations for the actual or expected loss ratio as required by Section 1358.14. The calculations shall include the following data: the actual loss ratio for the entire period in which the contract has been in force, as well as for the immediate past three years and for each year in which the contract has been in force, the scale of prepaid or periodic charges for the loss ratio calculation period, a description of all assumptions, the formula used to calculate gross prepaid or periodic charges, the expected level of earned prepaid or periodic charges in the loss ratio calculation period, and the expected level of incurred claims for reimbursement, including paid claims and incurred but not paid claims, in the loss ratio calculation period. The calculations shall be accompanied by an actuarial certification, consisting of a signed declaration of an actuary who is a member in good standing of the American Academy of Actuaries in which the actuary states that the assumptions used in calculating the expected loss ratio are appropriate and reasonable, taking into account that the calculations are in accordance with the provisions of subdivision (a) and the provisions referred to therein. In addition, the director may require the issuer to submit actuarial certification, as described above, by one or more unaffiliated actuaries acceptable to the director.

(c) Notwithstanding the calculations required by subdivision (b), contracts shall be deemed to comply with the loss ratio standards if, and shall be deemed not to comply with the loss standards unless: (1) for the most recent year, the ratio of the incurred losses to earned prepaid charges for contracts that have been in force for three years or more is greater than or equal to the applicable percentages contained in this section; and (2) the expected losses in relation to charges over the entire period for which the contract is rated comply with the requirements of this section. An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for contracts in force less than three years.

1358.146. The following format shall be used for reporting loss ratio experience:

MEDICARE SUPPLEMENT
HEALTH CARE SERVICE PLAN
CONTRACT EXPERIENCE EXHIBIT

For the year ended December 31, 20__.
For the State of California.

Of the ____ health care service plan.
Address (City, State, and Zip Code) ____
Person Completing this Exhibit ____
To be filed by June 30th following the filing under Section 1358.14 of the Health and Safety Code.

		Costs for Health Care Services	
Classification	Prepaid or Periodic Charges Earned	Amount	Percentage of Prepaid or Periodic Charges Earned
Experience on Individual Plan Contracts			
1. Contracts issued through 20__			
Reporting State			
Nationwide			
2. Contracts issued after 20__			
Reporting State			
Nationwide			
Experience on Group Plan Contracts			

1. Contracts Issued
through 20__

Reporting State _____
Nationwide _____

2. Contracts Issued
after 20__

Reporting State _____
Nationwide _____

The undersigned officer hereby certifies that the company named above has complied with the requirements contained in the federal Omnibus Budget Reconciliation Act of 1987, Section 4081.

Signature _____
Title and name (please type) _____

INSTRUCTIONS FOR COMPLETING MEDICARE SUPPLEMENT HEALTH CARE SERVICE PLAN CONTRACT EXPERIENCE EXHIBIT

1. Experience on plan contracts issued more than three years prior to the reporting year should be shown separately as indicated on the form. For example, for the reporting year ended 12/31/88 (filed on June 30, 1989), experience on plan contracts issued in 1985 and prior should be shown separately from that of plan contracts issued in 1986 and later. For group coverage, the year of issue should be based on when the contract was issued if available; otherwise use the master plan contract year of issue.

2. Allocation of reserves on a state-by-state basis should be on sound actuarial principles and be consistent from year to year.

3. Membership or plan contract fees, if any, constitute, and should be included with, prepaid or periodic charges earned. Earned prepaid or periodic charges may be shown on an annual basis net of loadings for nonannual modes.

4. Mass marketing group coverage subject to individual loss ratio standards should be included with individual plan contracts.

5. Any dividends paid to subscribers should be included with costs for health care.

6. Neither costs for health care services nor earned prepaid or periodic charges should be adjusted for changes in plan contract (additional) reserves.

DEFINITIONS

For purposes of this form:

1. ''Costs for health care services'' means payment for health care services plus the increase in claim reserves. Claim reserves include only those unpaid liabilities for claims that have already been incurred. Costs for health care services in this exhibit do not include plan contract additional reserves.

1358.15. (a) An issuer shall not advertise, solicit, or issue for delivery a Medicare supplement contract to a resident of this state unless the contract has been filed with and approved by the director in accordance with filing requirements and procedures prescribed by the director. Until January 1, 2001, or 90 days after approval of Medicare supplement contracts submitted for approval pursuant to this section, whichever is later, issuers may continue to offer and market previously approved Medicare supplement contracts.

(b) An issuer shall not use or change prepaid or periodic charges for a Medicare supplement contract unless the charges and supporting documentation have been filed with and approved by the director in accordance with the filing requirements and procedures prescribed by the director.

(c) (1) Except as provided in paragraph (2), an issuer shall not file for approval more than one contract of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the director, up to four additional contracts of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

(A) The inclusion of new or innovative benefits.

(B) The addition of either direct response or agent marketing methods.

(C) The addition of either guaranteed issue or underwritten coverage.

(D) The offering of coverage to individuals eligible for Medicare by reason of disability.

(3) For the purposes of this section, a ''type'' means an individual contract, a group contract, an individual Medicare Select contract, or a group Medicare Select contract.

(d) (1) Except as provided in subdivision (a), an issuer shall continue to make available for purchase any contract issued after January 1, 2001, that has been approved by the director. A contract shall not be considered

to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months.

(A) An issuer may discontinue the availability of a contract if the issuer provides to the director in writing its decision at least 30 days prior to discontinuing the availability of the form of the contract. After receipt of the notice by the director, the issuer shall no longer offer for sale the contract in this state.

(B) An issuer that discontinues the availability of a contract pursuant to subparagraph (A) shall not file for approval a new contract of the same type for the same standard Medicare supplement benefit plan as the discontinued contract for a period of five years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced if the director determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this section.

(3) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (1) unless the issuer complies with the following requirements:

(A) The issuer provides an actuarial memorandum, in a form and manner prescribed by the director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

(B) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The director may approve a change to the differential which is in the public interest.

(e) (1) Except as provided in paragraph (2), the experience of all contracts of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 1358.13.

(2) Contracts assumed under an assumption reinsurance agreement shall not be combined with the experience of other contracts for purposes of the refund or credit calculation.

(f) A Medicare supplement contract shall be deemed not to be fair, just, or consistent with the objectives of the this chapter at all times, and shall not be advertised, solicited, or issued for delivery at any time, except during that period of time, if any, beginning with the date of receipt by the plan of notification by the director that the provisions of the contract are deemed to be fair, just, and consistent with the objectives of this chapter, and ending with the earlier to occur of the events indicated in subdivision (g).

(g) The period of time indicated in subdivision (f) shall terminate at the earlier to occur of (1) receipt by the plan of written revocation by the director of the immediate past notification referred to in subdivision (f) specifying the basis for the revocation, (2) the last day of the prepaid or periodic charge calculation period, that in no event may exceed one year, or (3) June 30, of the next succeeding calendar year.

(h) An issuer shall secure the director's review of a contract subject to this article by submitting, not less than 30 days prior to any proposed advertising or other use of the contract not already protected by a currently effective notice under subdivision (f), the following for the director's review:

(1) A copy of the contract.

(2) A copy of the disclosure form.

(3) A representation that the contract complies with the provisions of this chapter and the rules adopted thereunder.

(4) A completed copy of the ''Medicare Supplement Health Care Service Plan Contract Experience Exhibit'' set forth in Section 1358.145.

(5) A copy of the calculations for the actual or expected loss ratio.

(6) Supporting data used in calculating the actual or expected loss ratio as indicated in Section 1358.14.

(7) An actuarial certification, as specified in Section 1358.14, of the loss ratio computations.

(8) If required by the director, actuarial certification, as specified in Section 1358.14, of the loss ratio computations by one or more unaffiliated actuaries acceptable to the director.

(9) An undertaking by the issuer to notify the subscribers in writing within 60 days of decertification, if the contract is identified as a certified contract at the time of sale and later decertified.

(10) A signed statement of the president of the issuer or other officer of the issuer designated by that person attesting that the information submitted for review is accurate and complete and does not misrepresent any material fact.

(i) An issuer that submits information pursuant to subdivision (h) shall provide any additional information as may be requested by the director to enable the director to conclude that the contract complies with the provisions of this chapter and rules adopted thereunder.

(j) For the purposes of this section, the term ''decertified,'' as applied to a contract, means that the director by written notice has found that the contract no longer complies with the provisions of this chapter and the rules adopted thereunder and has revoked the prior authorization to display on the contract the emblem indicating certification.

(k) Benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the

applicable Medicare deductible amount and copayment percentage factors and the amount of prepaid charges may be modified, as indicated in paragraph (6) of subdivision (a) of Section 1300.67.4 of the California Code of Regulations, to correspond with those changes.

1358.16. (a) An issuer or other entity may provide commission or other compensation to a solicitor or other representative for the sale of a Medicare supplement contract only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the contract in the second year or period.

(b) The commission or other compensation provided in subsequent renewal years shall be the same as that provided in the second year or period and shall be provided for no fewer than five renewal years.

(c) If coverage is replaced, no issuer shall provide compensation to a solicitor or solicitor firm, and no solicitor or solicitor firm shall receive compensation, in a greater amount than the renewal compensation for the replaced coverage.

(d) For purposes of this section, ''commission'' or ''compensation'' includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the contract, including, but not limited to, bonuses, gifts, prizes, awards, and finders' fees.

1358.17. (a) (1) Medicare supplement contracts shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with subdivision (a) of Section 1365 and the rules adopted thereunder. The provision shall be appropriately captioned and shall appear on the first page of the contract, and shall include any reservation by the issuer of the right to change prepaid or periodic charges and any automatic renewal increases based on the enrollee's age.

(2) The contract shall contain the provisions required to be set forth by Section 1300.67.4 of the California Code of Regulations.

(b) (1) Except for contract amendments by which the issuer effectuates a request made in writing by the enrollee, exercises a specifically reserved right under a Medicare supplement contract, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all amendments to a Medicare supplement contract after the date of issue or upon reinstatement or renewal that reduce or eliminate benefits or coverage in the contract shall require a signed acceptance by the subscriber. After the date of contract issue, any amendment that increases benefits or coverage with a concomitant increase in prepaid or periodic charges during the contract term shall be agreed to in writing signed by the subscriber, unless the benefits are required by the minimum standards for Medicare supplement contracts, or if the increased benefits or coverage is required by law. Where a separate

additional charge is made for benefits provided in connection with contract amendments, the charge shall be set forth in the contract.

(2) An issuer shall not in any way reduce or eliminate any benefit or coverage under a Medicare supplement contract at any time after the date of entering the contract, including dates of reinstatement or renewal, unless and until the change is voluntarily agreed to in writing signed by the subscriber or enrollee, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits. The issuer shall not increase benefits or coverage with a concomitant increase in prepaid or periodic charges during the term of the contract unless and until the change is voluntarily agreed to in writing signed by the subscriber or enrollee or unless the increased benefits or coverage is required by law or regulation.

(c) Medicare supplement contracts shall not provide for the payment of benefits based on standards described as ''usual and customary,'' ''reasonable and customary,'' or words of similar import.

(d) If a Medicare supplement contract contains any limitations with respect to preexisting conditions, those limitations shall appear as a separate paragraph of the contract and be labeled as ''Preexisting Condition Limitations.''

(e) (1) Medicare supplement contracts shall have a notice prominently printed in no less than 10-point uppercase type, on the cover page of the contract or attached thereto stating that the applicant shall have the right to return the contract within 30 days of its receipt via regular mail, and to have any charges refunded in a timely manner if, after examination of the contract, the covered person is not satisfied for any reason. The return shall void the contract from the beginning, and the parties shall be in the same position as if no contract had been issued.

(2) For purposes of this section, a timely manner shall be no later than 30 days after the issuer receives the returned contract.

(3) If the issuer fails to refund all prepaid or periodic charges paid in a timely manner, then the applicant shall receive interest on the paid charges at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure. The interest shall be paid from the date the issuer received the returned contract.

(f) (1) Issuers of health care service plan contracts that provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a guide to health insurance for people with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the guide shall be made whether or not the contracts are advertised, solicited, or issued for delivery as Medicare supplement contracts as defined in this article.

Except in the case of direct response issuers, delivery of the guide shall be made to the applicant at the time of application, and acknowledgment of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request, but not later than at the time the contract is delivered.

(2) For the purposes of this section, ''form'' means the language, format, type size, type proportional spacing, bold character, and line spacing.

(g) As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its enrollees and subscribers of modifications it has made to Medicare supplement contracts in a format acceptable to the director. The notice shall include both of the following:

(1) A description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement contract.

(2) Inform each enrollee as to when any adjustment in prepaid or periodic charges is to be made due to changes in Medicare.

(h) The notice of benefit modifications and any adjustments of prepaid or periodic charges shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(i) The notices shall not contain or be accompanied by any solicitation.

(j) (1) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant. If an outline of coverage is provided at the time of application and the Medicare supplement contract is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the contract shall accompany the contract when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name:

''NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.''

(2) The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, information about prepaid or periodic charges, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12-point type. All benefit plans A-J shall be shown on the cover page, and the

plans that are offered by the issuer shall be prominently identified. Information about prepaid or periodic charges for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The charge and mode shall be stated for all plans that are offered to the prospective applicant. All possible charges for the prospective applicant shall be illustrated.

(3) The disclosure pages shall be in the language and format described below in no less than 12-point type.

INFORMATION ABOUT PREPAID OR PERIODIC CHARGES

[Insert plan's name] can only raise your charges if it raises the charge for all contracts like yours in this state. [If the charge is based on the increasing age of the enrollee, include information specifying when charges will change.]

DISCLOSURES

Use this outline to compare benefits and charges among policies.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing the most important features of your Medicare supplement plan contract. This is not the plan contract and only the actual contract provisions will control. You must read the contract itself to understand all of the rights and duties of both you and [insert the health care service plan's name].

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your contract, you may return it to [insert plan's address]. If you send the contract back to us within 30 days after you receive it, we will treat the contract as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing other health coverage, do NOT cancel it until you have actually received your new contract and are sure you want to keep it.

NOTICE

This contract may not fully cover all of your medical costs. Neither [insert the health care service plan's name] nor its agents are connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local social security office or consult ''The Medicare Handbook'' for further details and limitations applicable to Medicare.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new contract, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your contract and refuse to pay any claims if you leave out or falsify important medical information. [If the contract is guaranteed issue, this paragraph need not appear.] Review the application carefully before you sign it. Be certain that all information has been properly recorded. [The charts displaying the features of each benefit plan offered by the issuer shall use the uniform format and language shown in the charts set forth in Section 17 of the Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as most recently adopted by the National Association of Insurance Commissioners. No more than four benefit plans may be shown on one chart. For purposes of illustration, charts for each benefit plan are set forth below. An issuer may use additional benefit plan designations on these charts.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the director.]

(k) Notwithstanding Section 1300.63.2 of Title 10 of the California Code of Regulations, no issuer shall combine the evidence of coverage and disclosure form into a single document relating to a contract that supplements Medicare, or is advertised or represented as a supplement to Medicare, with hospital or medical coverage.

(*l*) The director may adopt regulations to implement this article, including, but not limited to, regulations that specify the required information to be contained in the outline of coverage provided to applicants pursuant to this section, including the format of tables, charts, and other information.

(m) (1) Any health care service plan contract, other than a Medicare supplement contract, a contract issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C.A. Sec. 1395 et seq.), a disability income policy, or any other contract identified in

subdivision (b) of Section 1358.3, issued for delivery in this state to persons eligible for Medicare, shall notify enrollees under the contract that the contract is not a Medicare supplement contract. The notice shall either be printed or attached to the first page of the outline of coverage delivered to enrollees under the contract, or if no outline of coverage is delivered, to the first page of the contract delivered to enrollees. The notice shall be in no less than 12-point type and shall contain the following language:

''THIS CONTRACT IS NOT A MEDICARE SUPPLEMENT. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.''

(2) Applications provided to persons eligible for Medicare for the health insurance contracts described in paragraph (1) shall disclose the extent to which the contract duplicates Medicare in a manner required by the director. The disclosure statement shall be provided as a part of, or together with, the application for the contract.

(n) A Medicare supplement contract that does not cover custodial care shall, on the cover page of the outline of coverages, contain the following statement in uppercase type: ''THIS POLICY DOES NOT COVER CUSTODIAL CARE IN A SKILLED NURSING CARE FACILITY.''

1358.18. In the interest of full and fair disclosure, and to assure the availability of necessary consumer information to potential subscribers or enrollees not possessing a special knowledge of Medicare, health care service plans, or Medicare supplement contracts, an issuer shall comply with the following provisions:

(a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate or plan contract in force or whether a Medicare supplement contract is intended to replace any other disability policy or certificate, or plan contract, presently in force. A supplementary application or other form to be signed by the applicant and solicitor containing those questions and statements may be used.

''(Statements)

(1) You do not need more than one Medicare supplement policy or contract.

(2) If you purchase this contract, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal or medicaid and may not need a Medicare supplement contract.

(4) The benefits and premiums under your Medicare supplement contract can be suspended, if requested, during your entitlement to benefits under Medi-Cal or medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal or medicaid. If you are no longer entitled to Medi-Cal or medicaid, your contract will be reinstituted if requested within 90 days of losing Medi-Cal or medicaid eligibility.

(5) Counseling services are available in your state to provide advice concerning your purchase of Medicare supplement coverage and concerning medical assistance through the Medi-Cal or medicaid program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). Information regarding counseling services may be obtained from the California Department of Aging.

(Questions)

To the best of your knowledge,

(1) Do you have another Medicare supplement policy or certificate, or contract, in force?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplement policy or contract with this contract?

(2) Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement contract?

(a) If so, with which company?

(b) What kind of coverage?

(3) Are you covered for medical assistance through the Medi-Cal or medicaid program:

(a) As a specified low-income Medicare beneficiary (SLMB)?

(b) As a qualified Medicare beneficiary (QMB)?

(c) For other Medi-Cal or medicaid medical benefits?''

(b) Solicitors shall list any other health insurance policies or plan contracts they have sold to the applicant as follows:

(1) List policies and contracts sold that are still in force.

(2) List policies and contracts sold in the past five years that are no longer in force.

(c) An issuer issuing Medicare supplement contracts without a solicitor or solicitor firm (a direct response issuer) shall return to the applicant, upon delivery of the contract, a copy of the application or

supplemental forms, signed by the applicant and acknowledged by the issuer.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement contract, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the contract the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subdivision (d) for an issuer shall be provided in substantially the following form in no less than 10-point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT COVERAGE

(Company name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate an existing Medicare supplement policy or contract and replace it with a contract to be issued by [Plan Name]. Your contract to be issued by [Plan Name] will provide 30 days within which you may decide without cost whether you desire to keep the contract. You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy or contract only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY PLAN, SOLICITOR, SOLICITOR FIRM, OR OTHER REPRESENTATIVE:

(1) I have reviewed your current medical or health coverage. The replacement of coverage involved in this transaction does not duplicate coverage, to the best of my knowledge. The replacement contract is being purchased for the following reason (check one):

__ Additional benefits.

__ No change in benefits, but lower premiums or charges.

__ Fewer benefits and lower premiums or charges.
__ Other. (please specify) _____

(2) You may not be immediately eligible for full coverage under the new contract. This could result in denial or delay of a claim for benefits under the new contract, whereas a similar claim might have been payable under your present policy or contract.

(3) State law provides that your replacement Medicare supplement contract may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The plan will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new coverage for similar benefits to the extent that time was spent (depleted) under the original contract.

(4) If you still wish to terminate your present policy or contract and replace it with new coverage, be certain to truthfully and completely answer any and all questions on the application concerning your medical and health history. Failure to include all material medical information on an application requesting that information may provide a basis for the plan to deny any future claims and to refund your prepaid or periodic payment as though your contract had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded.

(5) Do not cancel your present Medicare supplement coverage until you have received your new contract and are sure you want to keep it.

CD

_____

(Signature of Solicitor, Solicitor Firm, or Other Representative)
[Typed Name and Address of Plan, Solicitor, or Solicitor Firm]

_____

(Applicant's Signature)

_____

(Date)

(f) The application form or other consumer information for persons eligible for Medicare and used by an issuer shall contain as an attachment a Medicare supplement buyer's guide in the form approved by the director. The application or other consumer information, containing as an attachment the buyer's guide, shall be mailed or delivered to each applicant applying for that coverage at or before the time of application and, to establish compliance with this subdivision, the issuer shall obtain an acknowledgment of receipt of the attached buyer's guide from each applicant. No issuer shall make use of or otherwise disseminate any

buyer's guide that does not accurately outline current Medicare supplement benefits. No issuer shall be required to provide more than one copy of the buyer's guide to any applicant.

(g) An issuer may comply with the requirement of this section in the case of group contracts by causing the subscriber (1) to disseminate copies of the disclosure form containing as an attachment the buyer's guide to all persons eligible under the group contract at the time those persons are offered the Medicare supplement plan, and (2) collecting and forwarding to the issuer an acknowledgment of receipt of the disclosure form containing as an attachment the buyer's guide from each enrollee.

1358.19. An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio, or television medium to the director for review or approval.

1358.20. (a) An issuer, directly or through solicitors or other representatives, shall do each of the following:

(1) Establish marketing procedures to ensure that any comparison of Medicare supplement coverage by its solicitors or other representatives will be fair and accurate.

(2) Establish marketing procedures to ensure that excessive coverage is not sold or issued.

(3) Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and contract, the following:

''Notice to buyer: This Medicare supplement contract may not cover all of your medical expenses.''

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant for a Medicare supplement contract already has health care coverage and the types and amounts of that coverage.

(5) Establish auditable procedures for verifying compliance with this subdivision.

(b) In addition to the practices prohibited by this code or any other law, the following acts and practices are prohibited:

(1) Twisting, which means knowingly making any misleading representation or incomplete or fraudulent comparison of any coverages or issuers for the purpose of inducing or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any coverage or to take out coverage with another plan or insurer.

(2) High pressure tactics, which means employing any method of marketing having the effect of or tending to induce the purchase of

coverage through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of coverage.

(3) Cold lead advertising, which means making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is the solicitation of coverage and that contact will be made by a health care service plan or its representative.

(c) The terms ''Medicare supplement,'' ''Medicare Wrap-Around'' and words of similar import shall not be used unless the contract is issued in compliance with this article. The term ''Medigap'' shall not be used.

1358.21. (a) In recommending the purchase or replacement of any Medicare supplement coverage, an issuer or its representative shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of a Medicare supplement contract that will provide an individual more than one Medicare supplement policy or certificate, or contract, is prohibited.

1358.22. (a) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement contract:

(1) Contract number.

(2) Date of issuance.

(b) The items set forth above shall be grouped by enrollee.

1358.225. (a) Every issuer shall, by June 30 of each year, file with the director a list of its Medicare supplement contracts offered or issued or outstanding in this state as of the end of the previous calendar year.

(b) The list shall identify the filing issuer by name and address, shall identify each type of contract it offers by name and form number, if one is used, and shall differentiate between contracts filed with and approved by the director in years prior to the previous calendar year, and those filed and approved in the previous calendar year.

(c) The list shall specifically identify all of the following:

(1) Contracts that are issued and outstanding in this state but are no longer offered for sale.

(2) Contracts that, for any reason, were not filed and approved by the director.

(3) Contracts for which the director's approval was withdrawn within the previous calendar year.

(d) The director shall, on or before the first day of September of each year provide the secretary with a list identifying each contract by name and address and the information required to be submitted by this section.

1358.23. (a) If a Medicare supplement contract replaces another Medicare supplement policy or certificate, or contract, the replacing

issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement contract for similar benefits to the extent that time was spent under the original policy or certificate, or contract.

(b) If a Medicare supplement contract replaces another Medicare supplement policy or certificate, or contract, that has been in effect for at least six months, the replacing contract shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods for benefits similar to those contained in the original policy or certificate, or contract.

SEC. 3. Article 6 (commencing with Section 10192.05) of Chapter 1 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 4. Article 6 (commencing with Section 10192.1) is added to Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read:

Article 6. Medicare Supplement Policies

10192.1. All Medicare supplement policies and certificates shall comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

10192.2. The purpose of this article is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies, to facilitate public understanding and comparison of those policies, to eliminate provisions contained in those policies that may be misleading or confusing in connection with the purchase of the policies or with the settlement of claims, and to provide for full disclosures in the sale of Medicare supplement insurance policies to persons eligible for Medicare.

10192.3. (a) Except as otherwise provided in this section or in Sections 10192.7, 10192.12, 10192.13, 10192.16, and 10192.21, this article shall apply to all Medicare supplement policies advertised, solicited, or issued for delivery in this state on or after January 1, 2001, and to all certificates delivered in this state under a group Medicare supplement master policy agreement that have been advertised, solicited, or issued for delivery in this state on or after that date.

(b) This article shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

(c) This article shall not apply to Medicare supplement policies subject to Article 3.5 (commencing with Section 1358.1) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(d) The commissioner may, from time to time, promulgate regulations to implement this article.

10192.4. For the purposes of this article, the following terms have the following meanings:

(a) ''Applicant'' means:

(1) The person who seeks to contract for insurance benefits, in the case of an individual Medicare supplement policy.

(2) The proposed certificate holder, in the case of a group Medicare supplement policy.

(b) ''Bankruptcy'' means that situation in which a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

(c) ''Certificate'' means a certificate issued for delivery in this state under a group Medicare supplement policy.

(d) ''Certificate form'' means the form on which the certificate is issued for delivery by the issuer.

(e) ''Continuous period of creditable coverage'' means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

(f) (1) ''Creditable coverage'' means, with respect to an individual, coverage of the individual provided under any of the following:

(A) Any individual or group contract, policy, certificate, or program that is written or administered by a health care service plan, disability insurer, 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.

(B) Part A or B of Title XVIII of the federal Social Security Act (Medicare).

(C) Title XIX of the federal Social Security Act (medicaid), other than coverage consisting solely of benefits under Section 1928 of that act.

(D) Chapter 55 of Title 10 of the United States Code (CHAMPUS).

(E) A medical care program of the Indian Health Service or of a tribal organization.

(F) A state health benefits risk pool.

(G) A health plan offered under Chapter 89 of Title 5 of the United States Code (Federal Employees Health Benefits Program).

(H) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the federal Public Health Service Act, as amended by Public Law 104-191, the federal Health Insurance Portability and Accountability Act of 1996.

(I) A health benefit plan under Section 5(e) of the federal Peace Corps Act (Section 2504(e) of Title 22 of the United States Code).

(J) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(K) Any other creditable coverage as defined by subsection (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(2) ''Creditable coverage'' shall not include one or more, or any combination of, the following:

(A) Coverage only for accident or disability income insurance, or any combination thereof.

(B) Coverage issued as a supplement to liability insurance.

(C) Liability insurance, including general liability insurance and automobile liability insurance.

(D) Workers' compensation or similar insurance.

(E) Automobile medical payment insurance.

(F) Credit-only insurance.

(G) Coverage for onsite medical clinics.

(H) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(3) ''Creditable coverage'' shall not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) Limited scope dental or vision benefits.

(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(C) Other similar, limited benefits as are specified in federal regulations.

(4) ''Creditable coverage'' shall not include the following benefits if offered as independent, noncoordinated benefits:

(A) Coverage only for a specified disease or illness.

(B) Hospital indemnity or other fixed indemnity insurance.

(5) ''Creditable coverage'' shall not include the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under Section 1882(g)(1) of the federal Social Security Act.

(B) Coverage supplemental to the coverage provided under Chapter 55 of Title 10 of the United States Code.

(C) Similar supplemental coverage provided to coverage under a group health plan.

(g) ''Employee welfare benefit plan'' means a plan, fund, or program of employee benefits as defined in Section 1002 of Title 29 of the United States Code (Employee Retirement Income Security Act).

(h) ''Insolvency'' means when an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

(i) ''Issuer'' includes insurance companies, fraternal benefit societies, and any other entity delivering, or issuing for delivery, Medicare supplement policies or certificates in this state, except entities subject to Article 3.5 (commencing with Section 1358) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(j) ''Medicare'' means the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended.

(k) ''Medicare+Choice Plan'' means a plan of coverage for health benefits under Medicare Part C and includes:

(1) Coordinated care plans that provide health care services, including, but not limited to, health care service plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organizations plans.

(2) Medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account.

(3) Medicare+Choice private fee-for-service plans.

(*l*) ''Medicare supplement policy'' means a group or individual policy of disability insurance, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C.A. Section 1395mm) or an issued policy under a demonstration project specified in Section 1395ss(g)(1) of Title 42 of the United States Code, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare.

(m) ''Policy form'' means the form on which the policy is issued for delivery by the issuer.

(n) ''Secretary'' means the Secretary of the United States Department of Health and Human Services.

10192.5. A policy or certificate shall not be advertised, solicited, or issued for delivery as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms that conform to the requirements of this section.

(a) (1) ''Accident,'' ''accidental injury,'' or ''accidental means'' shall be defined to employ ''result'' language and shall not include words that establish an accidental means test or use words such as

''external, violent, visible wounds'' or other similar words of description or characterization.

(2) The definition shall not be more restrictive than the following: ''injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person that is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force.''

(3) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability, or similar law, unless prohibited by law.

(b) ''Benefit period'' or ''Medicare benefit period'' shall not be defined more restrictively than as defined in the Medicare program.

(c) ''Convalescent nursing home,'' ''extended care facility,'' or ''skilled nursing facility'' shall not be defined more restrictively than as defined in the Medicare program.

(d) (1) ''Health care expenses'' means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(2) ''Health care expenses'' shall not include any of the following:

(A) Home office and overhead costs.

(B) Advertising costs.

(C) Commissions and other acquisition costs.

(D) Taxes.

(E) Capital costs.

(F) Administrative costs.

(G) Claims processing costs.

(e) ''Hospital'' may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

(f) ''Medicare'' shall be defined in the policy and certificate. ''Medicare'' may be substantially defined as ''The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended,'' or ''Title I, Part I of Public Law 89-97, as enacted by the 89th Congress and popularly known as the Health Insurance for the Aged Act, as amended,'' or words of similar import.

(g) ''Medicare eligible expenses'' shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(h) ''Physician'' shall not be defined more restrictively than as defined in the Medicare program.

(i) (1) ''Sickness'' shall not be defined more restrictively than as follows: ''sickness means illness or disease of an insured person that first

manifests itself after the effective date of insurance and while the insurance is in force.''

(2) The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

10192.55. (a) With regard to Medicare supplement policies, all insurers, brokers, agents, and others engaged in the business of insurance owe a policyholder a duty of honesty, and a duty of good faith and fair dealing.

(b) Conduct of an insurer, broker, or agent during the offer and sale of a Medicare supplement policy previous to the purchase is relevant to any action alleging a breach of the duty of honesty, and a duty of good faith and fair dealing set forth in subdivision (a).

10192.6. (a) Except for permitted preexisting condition clauses as described in Sections 10192.7 and 10192.8, a policy or certificate shall not be advertised, solicited, or issued for delivery as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(b) A Medicare supplement policy or certificate shall not use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(c) A Medicare supplement policy or certificate in force shall not contain benefits that duplicate benefits provided by Medicare.

10192.7. A policy or certificate shall not be advertised, solicited, or issued for delivery as a Medicare supplement policy or certificate prior to January 1, 2001, unless it meets or exceeds requirements applicable pursuant to this code that were in effect prior to that date.

10192.8. The following standards are applicable to all Medicare supplement policies or certificates advertised, solicited, or issued for delivery on or after January 1, 2001. A policy or certificate shall not be advertised, solicited, or issued for delivery as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(a) The following general standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this article:

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with those changes.

(4) A Medicare supplement policy or certificate shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(5) Each Medicare supplement policy shall be guaranteed renewable or noncancelable.

(A) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

(B) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or misrepresentation which is shown by the issuer to be material to the acceptance for coverage. The contestability period for Medicare supplement insurance shall be two years.

(C) If the Medicare supplement policy is terminated by the master policyholder and is not replaced as provided under subparagraph (E), the issuer shall offer certificate holders an individual Medicare supplement policy that, at the option of the certificate holder, either provides for continuation of the benefits contained in the group policy or provides for benefits that otherwise meet the requirements of one of the standardized policies defined in this article.

(D) If an individual is a certificate holder in a group Medicare supplement policy and membership in the group is terminated, the issuer shall either offer the certificate holder the conversion opportunity described in subparagraph (C) or, at the option of the group policyholder, shall offer the certificate holder continuation of coverage under the group policy.

(E) (i) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(ii) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate that has been in force for six months or more, the replacing issuer shall not impose an exclusion or

limitation based on a preexisting condition. If the original coverage has been in force for less than six months, the replacing issuer shall waive any time period applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy or certificate to the extent the time was spent under the original coverage.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

(7) (A) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period, not to exceed 24 months, in which the policyholder or certificate holder has applied for and is determined to be entitled to Medi-Cal or medicaid under Title XIX of the federal Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance. Upon receipt of timely notice, the insurer shall return directly to the insured that portion of the premium attributable to the period of Medi-Cal or medicaid eligibility, subject to adjustment for paid claims.

(B) If suspension occurs and if the policyholder or certificate holder loses entitlement to Medi-Cal or medicaid, the policy or certificate shall be automatically reinstituted, effective as of the date of termination of entitlement, as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement, or equivalent coverage shall be provided if the prior form is no longer available.

(C) Reinstitution of coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions.

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension.

(iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(8) No Medicare supplement policy may limit coverage exclusively to a single disease or affliction.

(b) With respect to the standards for basic (core) benefits common to all benefit plans, every issuer shall make available a policy or certificate

including only the following basic ''core'' package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. However, the benefits described in paragraphs (6) and (7) shall not be offered so long as California is required to disallow these benefits for Medicare beneficiaries by the Health Care Financing Administration or other agent of the federal government under Section 1395ss of Title 42 of the United States Code.

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day to the 90th day, inclusive, in any Medicare benefit period.

(2) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Medicare diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(4) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced in accordance with federal regulations.

(5) Coverage for the coinsurance amount, or in the case of hospital outpatient department services, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(6) Coverage of the actual cost, up to the legally billed amount, of an annual mammogram as provided in Section 10123.81, to the extent not paid by Medicare.

(7) Coverage of the actual cost, up to the legally billed amount, of an annual cervical cancer screening test as provided in Section 10123.18, to the extent not paid by Medicare.

(c) The following additional benefits shall be included in Medicare supplement benefit plans B to J, inclusive, only as provided by Section 10192.9.

(1) With respect to the Medicare Part A deductible, coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) With respect to skilled nursing facility care, coverage for the actual billed charges up to the coinsurance amount from the 21st day to

the 100th day, inclusive, in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) With respect to the Medicare Part B deductible, coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) With respect to 80 percent of the Medicare Part B excess charges, coverage for 80 percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. If the insurer limits payment to a limiting charge, the insurer has the burden to establish that amount as the legal limit.

(5) With respect to 100 percent of the Medicare Part B excess charges, coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. If the insurer limits payment to a limiting charge, the insurer has the burden to establish that amount as the legal limit.

(6) With respect to the basic outpatient prescription drug benefit, coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars ($1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(7) With respect to the extended outpatient prescription drug benefit, coverage for 50 percent of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of three thousand dollars ($3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(8) With respect to medically necessary emergency care in a foreign country, coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, ''emergency care'' shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) With respect to the following, reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, up to a maximum of one hundred twenty dollars ($120)

annually under this benefit, however, this benefit shall not include payment for any procedure covered by Medicare:

(A) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (B) and patient education to address preventive health care measures.

(B) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(i) Fecal occult blood test or digital rectal examination, or both.

(ii) Mammogram.

(iii) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.

(iv) Pure tone, air only, hearing screening test, administered or ordered by a physician.

(v) Serum cholesterol screening every five years.

(vi) Thyroid function test.

(vii) Diabetes screening.

(C) Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster every 10 years.

(D) Any other tests or preventive measures determined appropriate by the attending physician.

(10) With respect to the at-home recovery benefit, coverage for the actual charges up to forty dollars ($40) per visit and an annual maximum of one thousand six hundred dollars ($1,600) per year to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

(A) For purposes of this benefit, the following definitions shall apply:

(i) ''Activities of daily living'' include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) ''Care provider'' means a duly qualified or licensed home health aide or homemaker, or a personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) ''Home'' shall mean any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) ''At-home recovery visit'' means the period of a visit required to provide at-home recovery care, without any limit on the duration of the visit, except that each consecutive four hours in a 24-hour period of services provided by a care provider is one visit.

(B) With respect to coverage requirements and limitations, the following shall apply:

(i) At-home recovery services provided shall be primarily services that assist in activities of daily living.

(ii) The insured's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to the following:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment.

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars ($40) per visit.

(III) One thousand six hundred dollars ($1,600) per calendar year.

(IV) Seven visits in any one week.

(V) Care furnished on a visiting basis in the insured's home.

(VI) Services provided by a care provider as defined in subparagraph (A).

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(VIII) At-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit.

(C) Coverage is excluded for the following:

(i) Home care visits paid for by Medicare or other government programs.

(ii) Care provided by family members, unpaid volunteers, or providers who are not care providers.

(11) With respect to new or innovative benefits, an issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement policies, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

10192.9. (a) An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic (core) benefits, as defined in subdivision (b) of Section 10192.8.

(b) No groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in

this state, except as may be permitted by paragraph (11) of subdivision (c) of Section 10192.8 and by Section 10192.10.

(c) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans A to J, inclusive, listed in subdivision (e), and shall conform to the definitions in Section 10192.4. Each benefit shall be structured in accordance with the format provided in subdivisions (b) and (c) of Section 10192.8 and list the benefits in the order listed in subdivision (e). For purposes of this section, ''structure, language, and format'' means style, arrangement, and overall content of a benefit.

(d) An issuer may use, in addition to the benefit plan designations required in subdivision (c), other designations to the extent permitted by law.

(e) With respect to the makeup of benefit plans, the following shall apply:

(1) Standardized Medicare supplement benefit plan A shall be limited to the basic (core) benefit common to all benefit plans, as defined in subdivision (b) of Section 10192.8.

(2) Standardized Medicare supplement benefit plan B shall include only the following: the core benefit, plus the Medicare Part A deductible as defined in paragraph (1) of subdivision (c) of Section 10192.8.

(3) Standardized Medicare supplement benefit plan C shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), and (8) of subdivision (c) of Section 10192.8, respectively.

(4) Standardized Medicare supplement benefit plan D shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in paragraphs (1), (2), (8), and (10) of subdivision (c) of Section 10192.8, respectively.

(5) Standardized Medicare supplement benefit plan E shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in paragraphs (1), (2), (8), and (9) of subdivision (c) of Section 10192.8, respectively.

(6) Standardized Medicare supplement benefit plan F shall include only the following: the core benefit, plus the Medicare Part A deductible, the skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), (5), and (8) of subdivision (c) of Section 10192.8, respectively.

(7) Standardized Medicare supplement benefit high deductible plan F shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible plan F deductible. The covered expenses include the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (3), (5), and (8) of subdivision (c) of Section 10192.8, respectively. The annual high deductible plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan F policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan F deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on the calendar year, as adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

(8) Standardized Medicare supplement benefit plan G shall include only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, 80 percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in paragraphs (1), (2), (4), (8), and (10) of Section 10192.8, respectively.

(9) Standardized Medicare supplement benefit plan H shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country as defined in paragraphs (1), (2), (6), and (8) of Section 10192.8, respectively.

(10) Standardized Medicare supplement benefit plan I shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in paragraphs (1), (2), (5), (6), (8), and (10) of subdivision (c) of Section 10192.8, respectively.

(11) Standardized Medicare supplement benefit plan J shall consist of only the following: the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in paragraphs (1), (2), (3), (5), (7), (8), (9), and (10) of subdivision (c) of Section 10192.8, respectively.

(12) Standardized Medicare supplement benefit high deductible plan J shall consist of only the following: 100 percent of covered expenses following the payment of the annual high deductible plan J deductible. The covered expenses include the core benefit, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit, and at-home recovery benefit as defined in paragraphs (1), (2), (3), (5), (7), (8), (9), and (10) of subdivision (c) of Section 10192.8, respectively. The annual high deductible plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan J policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be one thousand five hundred dollars ($1,500) for 1998 and 1999, and shall be based on a calendar year, as adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10).

10192.10. (a) (1) This section shall apply to Medicare Select policies and certificates, as defined in this section.

(2) A policy or certificate shall not be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.

(b) For the purposes of this section:

(1) ''Appeal'' means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

(2) ''Complaint'' means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

(3) ''Medicare Select issuer'' means an issuer offering, seeking to offer, advertising, marketing, soliciting, or issuing a Medicare Select policy or certificate.

(4) ''Medicare Select policy'' or ''Medicare Select certificate'' mean respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(5) ''Network provider'' means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer or other entity to provide benefits insured under a Medicare Select policy.

(6) ''Restricted network provision'' means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(7) ''Service area'' means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare Select policy.

(8) ''Grievance'' means a written complaint registered by an individual for resolution under the formal grievance procedure, which may involve, but is not limited to, the administration, claims practices or provision of services by the issuer or its network providers.

(9) ''Medicare Select coverage'' means Medicare supplement coverage through a preferred provider organization or any other type of restricted network, which coverage has been approved by the commissioner under this section.

(10) ''Preferred provider organization'' means a health care provider or an entity contracting with health care providers that (A) establishes alternative or discounted rates of payment, (B) offers the insureds certain advantages for selecting the member providers, or (C) withholds from the insureds certain advantages if they choose providers other than the member providers. Organizations regulated as Medicare Select include, but are not limited to, provider groups, hospital marketing plans, and organizations that are formed or operated by insurers or third-party administrators.

(c) The commissioner may authorize an issuer to offer a Medicare Select policy or certificate pursuant to this section if the commissioner finds that the issuer has satisfied all of the requirements of this section.

(d) A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the commissioner.

(e) A Medicare Select issuer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(1) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration of all of the following:

(A) That services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and afterhour care. The hours of operation and availability of afterhour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

(B) That the number of network providers in the service area is sufficient, with respect to current and expected policyholders, as to either of the following:

(i) To deliver adequately all services that are subject to a restricted network provision.

(ii) To make appropriate referrals.

(C) There are written agreements with network providers describing specific responsibilities.

(D) Emergency care is available 24 hours per day and seven days per week.

(E) In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, that there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate.

This subparagraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(2) A statement or map providing a clear description of the service area.

(3) A description of the appeal or grievance procedure to be utilized.

(4) A description of the quality assurance program, including all of the following:

(A) The formal organizational structure.

(B) The written criteria for selection, retention, and removal of network providers.

(C) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(5) A list and description, by specialty, of the network providers.

(6) Copies of the written information proposed to be used by the issuer to comply with subdivision (i).

(7) Any other information requested by the commissioner.

(f) (1) A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing the changes. Changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

(2) An updated list of network providers shall be filed at the commissioner's request, but at least quarterly.

(g) A Medicare Select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(1) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition.

(2) It is not reasonable to obtain services through a network provider.

(h) A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(i) A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with both of the following:

(A) Other Medicare supplement policies or certificates offered by the issuer.

(B) Other Medicare Select policies or certificates.

(2) A description, including address, telephone number, and hours of operation, of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(3) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(4) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(5) A description of limitations on referrals to restricted network providers and to other providers.

(6) A description of the policyholder's or certificate holder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(7) A description of the Medicare Select issuer's quality assurance, grievance, and appeal procedure.

(j) Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subdivision (i) and that the applicant understands the restrictions of the Medicare Select policy or certificate. Acknowledgments shall be maintained by the insurer for at least five years in accordance with Section 10508.

(k) A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written appeals and grievances from the insureds. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(1) The appeal and grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder or certificate holder describing how an appeal or grievance may be registered with the issuer.

(3) Appeals or grievances shall be considered in a timely manner and shall be transmitted to appropriate fiduciaries who have authority to fully investigate the issue and take corrective action.

(4) If an appeal or grievance is found to be valid, corrective action shall be taken promptly.

(5) All concerned parties shall be notified about the results of an appeal or grievance.

(6) The issuer shall report no later than each March 31st to the commissioner regarding its appeal or grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of appeals or grievances filed in the past year and a summary of the subject, nature, and resolution of those appeals or grievances.

(7) Detailed information describing in writing how to register an appeal or grievance shall be provided to the insured prior to, or simultaneously with, the issuance of the policy or certificate.

(8) The issuer shall maintain records of each appeal or grievance for at least five years.

(*l*) At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(m) (1) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six months, unless the replacement policy or certificate includes prescription drug coverage or at-home recovery benefits that were not included in the Medicare Select coverage.

(2) For the purposes of this subdivision, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Medicare Part B excess charges.

(n) Medicare Select policies and certificates shall provide for continuation of coverage in the event the commissioner determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select program to be reauthorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the

opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this subdivision, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Medicare Part B excess charges.

(o) A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services for the purpose of evaluating the Medicare Select program.

(p) The commissioner may grant special Medicare Select status to plans of guaranteed renewable Medicare supplement coverage provided through a preferred provider organization, which plans were offered to the public or in force before the effective date of this section, if the commissioner determines that the applicants will receive benefits and consumer protections that are substantially equivalent to those in other Medicare Select plans identified in this section, and if the issuer satisfies the following requirements:

(1) The issuer shall apply within one year of the effective date of this section by submitting to the commissioner the following items:

(A) The current plan of operation as defined in subdivision (e).

(B) If the written disclosures of subdivision (i) have not been delivered to each applicant as required, the issuer's plan to accomplish full disclosure to every insured and to achieve substantial compliance with subdivision (j).

(C) The issuer's statement of intent to comply with subdivision (f).

(D) If the plan of operation does not comply with the standards of subdivision (g), (h), (k), (*l*), or (m), the issuer's plan for achieving substantial compliance with these subdivisions for every insured.

(2) The issuer shall alter the plan as requested by the commissioner in order to bring the plan into substantial compliance with Medicare Select standards.

(3) The issuer shall issue disclosures or other notices to its insureds regarding its status as Medicare Select as ordered by the commissioner.

(4) The issuer shall provide data as provided in subdivision (o).

10192.11. (a) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available

for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this subdivision without regard to age. This section shall not be construed as preventing the exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10192.8.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the commissioner.

(c) Except as provided in subdivision (b) and Section 10192.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she reaches age 65. Every issuer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that issuer at the time of application. Issuers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of

this section, ''employer-sponsored retiree health plan'' includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(g) (1) An individual who was previously enrolled in but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(h) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement policy, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. An issuer shall notify a policyholder of

his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

10192.12. (a) (1) With respect to the guaranteed issue of a Medicare supplement policy, eligible persons are those individuals described in subdivision (b) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide all of those supplemental health benefits to the individual.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the commissioner, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the

plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the commissioner may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because of the following: the insolvency of the issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the policy; the issuer of the policy substantially violated a material provision of the policy; or the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select policy.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement policy that has a benefit package classified as plan A, B, C, or F offered by any issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement policy in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement policy offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

10192.13. (a) An issuer shall comply with Section 1882(c)(3) of the federal Social Security Act (as enacted by Section 4081(b)(2)(C) of the federal Omnibus Budget Reconciliation Act of 1987 (OBRA), Public Law 100-203) by doing all of the following and by certifying compliance on the Medicare supplement insurance experience reporting form:

(1) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice.

(2) Notifying the participating physician or supplier and the beneficiary of the payment determination.

(3) Paying the participating physician or supplier directly.

(4) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent.

(5) Paying user fees for claim notices that are transmitted electronically or otherwise.

(6) Providing to the secretary, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(7) File, by June 30 of each year, with the commissioner a list of its Medicare supplement policies and certificates offered or issued or in force in California as of the end of the previous year.

(A) The list shall identify the issuer by name and address, shall identify each type of form it offers by name and form number, and shall differentiate between forms approved in the previous calendar year and those approved before the previous calendar year.

(B) The list shall identify all of the following:

(i) Forms issued and in force but no longer offered in California.

(ii) Forms that, for any reason, were not filed and approved by the commissioner.

(iii) Forms for which the commissioner's approval was withdrawn within the previous calendar year.

(iv) The number of forms issued in California in the previous calendar year, and the number of forms in force in California on December 31 of the previous calendar year.

(b) (1) Compliance with the requirements set forth in subdivision (a) shall be certified on the Medicare supplement insurance experience reporting form provided by the commissioner.

(2) The commissioner shall, by September 1 of each year, provide the secretary with a list identifying each issuer by name and address and provide the information requested in this section.

(c) No issuer that administers Medicare coverage and federal employee programs may require that more than one form be submitted per claim in order to receive payment or reimbursement under any or all of those policies or programs.

10192.14. (a) (1) (A) With respect to loss ratio standards, a Medicare supplement policy form or certificate form shall not be advertised, solicited, or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits, not including anticipated refunds or credits, provided under the policy form or certificate form at least 75 percent of the aggregate amount of premiums earned in the case of group policies, or at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

(B) Loss ratio standards shall be calculated on the basis of incurred claims experience, and earned premiums shall be calculated for the period and in accordance with accepted actuarial principles and practices.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(3) For purposes of applying paragraph (1) of subdivision (a) and paragraph (3) of subdivision (c) of Section 10192.15 only, policies issued as a result of solicitations of individuals through the mail or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual policies.

(b) (1) With respect to refund or credit calculations, an issuer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form required by the commissioner for each type of coverage in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) For the purposes of this section, with respect to policies or certificates advertised, solicited, or issued for delivery prior to January 1, 2001, the issuer shall make the refund or credit calculation separately for all individual policies, including all group policies subject to an individual loss ratio standard when issued, combined and all other group policies combined for experience after January 1, 2001. The first report pursuant to paragraph (1) shall be due by May 31, 2003.

(4) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the secretary, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(c) An issuer of Medicare supplement policies and certificates shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner and this code. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates shall file with the commissioner, in accordance with applicable filing procedures, all of the following:

(1) (A) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing.

(B) An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described in this section shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(C) If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by this section.

(2) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(d) The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of January 1, 2001, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio

standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the commissioner.

10192.15. (a) An issuer shall not advertise, solicit, or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner. Master policies issued outside California shall be filed for informational purposes along with the certificates. Until January 1, 2001, or 90 days after approval of Medicare supplement policies or certificates submitted for approval pursuant to this section, whichever is later, issuers may continue to offer and market previously approved Medicare supplement policies or certificates.

(b) (1) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.

(2) Paragraph (1) of subdivision (b) of Section 10290 shall not apply to Medicare supplement insurance forms or rates. However, the commissioner may authorize in writing, for good cause only, the limited use of a form or rates after that form or the rates have been filed with the commissioner for 60 days and have not otherwise been acted upon.

(c) (1) Except as provided in paragraph (2), an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

(A) The inclusion of new or innovative benefits.

(B) The addition of either direct response or agent marketing methods.

(C) The addition of either guaranteed issue or underwritten coverage.

(D) The offering of coverage to individuals eligible for Medicare by reason of disability.

(3) For the purposes of this section, a ''type'' means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

(d) (1) Except as provided in subdivision (a), an issuer shall continue to make available for purchase any policy form or certificate form issued after January 1, 2001, that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for

purchase unless the issuer has actively offered it for sale in the previous 12 months.

(A) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least 60 days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

(B) An issuer that discontinues the availability of a policy form or certificate form pursuant to subparagraph (A) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subdivision.

(3) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (1) unless the issuer complies with the following requirements:

(A) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates. The commissioner may approve the change if it is in the public interest.

(B) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest. The commissioner may approve a change to the differential if it is in the public interest.

(e) (1) Except as provided in paragraph (2), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 10192.13.

(2) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

10192.16. (a) An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing

the policy or certificate in the second year or period. Every insurer shall file with the commissioner its commission structure or an explanation of the insurer's plan to comply with this provision.

(b) The commission or other compensation provided in subsequent renewal years must be the same as that provided in the second year or period and must be provided for no fewer than five renewal years.

(c) No issuer or other entity shall provide compensation to its agents or other producers, and no agent or producer shall receive compensation, greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

(d) For purposes of this section, ''commission'' or ''compensation'' includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate, including, but not limited to, bonuses, gifts, prizes, awards, and finders' fees.

10192.165. (a) (1) As prescribed in this chapter, the commissioner shall have the administrative authority to assess penalties against issuers, brokers, agents, and other entities engaged in the business of insurance or any other person or entity for violations of this article.

(2) Upon a showing of a violation of this article in any civil action, a court may also assess the penalties prescribed in this chapter.

(3) Whenever the commissioner has reasonable cause to believe or determines after a public hearing that any issuer, agent, broker, or other person or entity engaged in the business of insurance, has violated this article he or she shall make and serve upon the issuer, broker, or other person or entity a notice of hearing. The notice shall state the commissioner's intent to assess the administrative penalties, the time and place of the hearing, and the conduct, condition, or ground upon which the commissioner is holding the hearing and assessing the penalties. The hearing shall occur within 30 days after the notice is served. Within 30 days after the hearing the commissioner shall issue an order specifying the amount of penalties to be paid. The penalties resulting from the hearing shall be paid to the Insurance Fund.

(4) The powers vested in the commissioner by this section shall be additional to any and all powers and remedies vested in the commissioner by law.

(b) (1) Any broker, agent, or other person or entity engaged in the business of insurance, other than an issuer, who violates this article is liable for administrative penalties of no less than two hundred fifty dollars ($250) for the first violation.

(2) Any broker, agent, other person, or other entity engaged in the business of insurance, other than an issuer, who engages in practices prohibited by this chapter a second or subsequent time or who commits a knowing violation of this article, is liable for administrative penalties

of no less than one thousand dollars ($1,000) and no more than twenty-five thousand dollars ($25,000) for each violation.

(3) Any issuer who violates this article is liable for administrative penalties of no less than two thousand five hundred dollars ($2,500) for the first violation.

(4) Any issuer who violates this article with a frequency as to indicate a general business practice or commits a knowing violation of this article, is liable for administrative penalties of no less than ten thousand dollars ($10,000) and no more than one hundred thousand dollars ($100,000) for each violation.

(c) (1) Actions for injunctive relief, penalties in the amounts specified in subdivision (a), damages, restitution, and all other remedies provided for in law, may be brought in superior court by the Attorney General, district attorney, or city attorney on behalf of the people of the State of California.

(2) The court shall award reasonable attorney's fees and costs to a prevailing plaintiff who establishes a violation of this article.

(d) In addition to any other applicable penalties, the commissioner may require issuers, agents, brokers, or other persons or entities violating any provision of this article or regulations promulgated pursuant to this article, to cease marketing in this state any Medicare supplement policy or certificate or may require the issuer, agent, broker, or other person or entity to take such actions as are necessary to comply with the provisions of this article, or both.

(e) Any person who knowingly or intentionally violates any provision of this article is guilty of a public offense punishable by imprisonment in a county jail not exceeding 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.

(f) (1) The requirements and remedies provided by this article are in addition to any other remedies provided by law.

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

10192.17. (a) Medicare supplement policies and certificates shall include a renewal, continuation, or conversion provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(b) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after the date of issue or upon reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(c) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as ''usual and customary,'' ''reasonable and customary,'' or words of similar import.

(d) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, those limitations shall appear as a separate paragraph of the policy and be labeled as ''Preexisting Condition Limitations.''

(e) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate, and of the outline of coverage, or attached thereto, in no less than 10-point uppercase type, stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate, via regular mail, within 30 days of receiving it, and to have the full premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason. The return shall void the contract from the beginning, and the parties shall be in the same position as if no contract had been issued.

(2) For purposes of this section, a timely manner shall be no later than 30 days after the issuer receives the returned contract.

(3) If the issuer fails to refund all prepaid or periodic charges paid in a timely manner, then the applicant shall receive interest on the paid charges at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure. The interest shall be paid from the date the issuer received the returned contract.

(f) (1) Issuers of disability insurance policies, certificates, or contracts that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare shall provide to those applicants a Guide to Health

Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the guide shall be made whether or not the policies or certificates are advertised, solicited, or issued for delivery as Medicare supplement policies or certificates as defined in this article. Except in the case of direct response issuers, delivery of the guide shall be made to the applicant at the time of application, and acknowledgment of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request, but not later than at the time the policy is delivered.

(2) For the purposes of this section, ''form'' means the language, format, type size, type proportional spacing, bold character, and line spacing.

(g) As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement policies or certificates in a format acceptable to the commissioner. The notice shall include both of the following:

(1) A description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate.

(2) Inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

(h) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(i) The notices shall not contain or be accompanied by any solicitation.

(j) (1) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name:

''NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.''

(2) The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12-point type. All plans A-J shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(3) The commissioner may adopt regulations to implement this article, including, but not limited to, regulations that specify the required information to be contained in the outline of coverage provided to applicants pursuant to this section, including the format of tables, charts, and other information.

(k) (1) Any disability insurance policy or certificate, a basic, catastrophic or major medical expense policy, or single premium nonrenewal policy or certificate issued to persons eligible for Medicare, other than a Medicare supplement policy, a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C.A. Sec. 1395 et seq.), a disability income policy, or any other policy identified in subdivision (b) of Section 10192.3, advertised, solicited, or issued for delivery in this state to persons eligible for Medicare, shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy or certificate delivered to insureds. The notice shall be in no less than 12-point type and shall contain the following language:

''THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.''

(2) Applications provided to persons eligible for Medicare for the disability insurance policies or certificates described in paragraph (1) shall disclose the extent to which the policy duplicates Medicare in a manner required by the commissioner. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

(*l*) (1) Insurers issuing Medicare supplement policies or certificates for delivery in California shall provide an outline of coverage to all applicants at the time of presentation for examination or sale as provided in Section 10605, and in no case later than at the time the application is made. Except for direct response policies, insurers shall obtain a written acknowledgment of receipt of the outline from the applicant.

Any advertisement that is not a presentation for examination or sale as defined in subdivision (e) of Section 10601 shall contain a notice in no less than 10-point uppercase type that an outline of coverage is available upon request. The insurer or agent that receives any request for an outline of coverage shall provide an outline of coverage to the person making the request within 14 days of receipt of the request.

(2) If an outline of coverage is provided at or before the time of application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the name:

''NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.''

(3) The outline of coverage shall be in the language and format prescribed in this subdivision in no less than 12-point type, and shall include the following items in the order prescribed below. Titles, as set forth below in paragraphs (B) to (H), inclusive, shall be capitalized, centered, and printed in boldface type. The outline of coverage shall include the items, and in the same order, specified in the chart set forth in paragraph (4) of subdivision (C) of Section 17 of the Model Regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, as adopted by the National Association of Insurance Commissioners on July 30, 1991.

(A) The cover page shall contain the 10-plan (A through J) chart. The plans offered by the insurer shall be clearly identified. Innovative benefits shall be explained in a manner approved by the commissioner. The text shall read:

''Medicare supplement insurance can be sold in only 10 standard plans. This chart shows the benefits included in each plan. Every insurance company must offer Plan A. Some plans may not be available.

The BASIC BENEFITS included in ALL plans are:

Hospitalization: Medicare Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical expenses: Medicare Part B coinsurance (usually 20 percent of the Medicare-approved amount).

Blood: First three pints of blood each year.

Mammogram: One annual screening to the extent not covered by Medicare.

Cervical cancer test: One annual screening.''

[Reference to the mammogram and cervical cancer test shall not be included so long as California is required to disallow them for Medicare beneficiaries by the Health Care Financing Administration or other agent of the federal government under 42 U.S.C. Sec. 1395ss.]

(B) PREMIUM INFORMATION. Premium information for plans that are offered by the insurer shall be shown on, or immediately following, the cover page and shall be clearly and prominently displayed. The premium and mode shall be stated for all offered plans. All possible premiums for the prospective applicant shall be illustrated in writing. If the premium is based on the increasing age of the insured, information specifying when and how premiums will change shall be clearly illustrated in writing. The text shall state: ''We [the insurer's name] can only raise your premium if we raise the premium for all policies like yours in California.''

(C) The text shall state: ''Use this outline to compare benefits and premiums among policies.''

(D) READ YOUR POLICY VERY CAREFULLY. The text shall state: ''This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.''

(E) THIRTY-DAY RIGHT TO RETURN THIS POLICY. The text shall state: ''If you find that you are not satisfied with your policy, you may return it to [insert the insurer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it has never been issued and return all of your payments.''

(F) POLICY REPLACEMENT. The text shall read: ''If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.''

(G) DISCLOSURES. The text shall read: ''This policy may not fully cover all of your medical costs.'' ''Neither this company nor any of its agents are connected with Medicare.'' ''This outline of coverage does not give all the details of Medicare coverage. Contact your local social security office or consult ''The Medicare Handbook'' for more details.'' ''For additional information concerning policy benefits, contact the Health Insurance Counseling and Advocacy Program (HICAP) or your agent. Call the HICAP toll-free telephone number, 1-800-434-0222, for

a referral to your local HICAP office. HICAP is a service provided free of charge by the State of California.''

The disclosure required by this paragraph, as revised by amendments made during the 1996 portion of the 1995–96 Regular Session, shall be included in the required disclosure form no later than January 1, 1998.

(H) [For policies that are not guaranteed issue] COMPLETE ANSWERS ARE IMPORTANT. The text shall read: ''When you fill out the application for a new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may have the right to cancel your policy and refuse to pay any claims if you leave out or falsify important medical information.

Review the application carefully before you sign it. Be certain that all information has been properly recorded.''

(I) An example showing a physician's charge, which is equal to or less than the allowable limiting charge for the current year, of two thousand dollars ($2,000), the amount that Medicare would approve, the amount that Medicare would pay, the amount that the policy or certificate would pay, and any amount that would be owed by the insured, assuming that the annual deductible has already been paid. The statement shall be prominently displayed and in type no smaller than other type on the page.

(J) One chart for each benefit plan offered by the insurer showing the services, Medicare payments, payments under the policy and payments expected from the insured, using the same uniform format and language. No more than four plans may be shown on one page. Include an explanation of any innovative benefits in a manner approved by the commissioner.

10192.18. (a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other disability policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing those questions and statements may be used.

''(Statements)

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medi-Cal and may not need a Medicare supplement policy.

(4) The benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medi-Cal for 24 months. You must request this suspension within 90 days of becoming eligible for Medi-Cal. If you are no longer entitled to Medi-Cal, your policy will be reinstituted if requested within 90 days of losing Medi-Cal eligibility.

(5) Counseling services are available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the Medi-Cal program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB). If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

(Questions)

To the best of your knowledge,

(1) Do you have another Medicare supplement policy or certificate in force, including an HMO contract?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplement policy with this policy or certificate?

(2) Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

(a) If so, with which company?

(b) What kind of policy?

(c) Would the benefits duplicate the benefits in this Medicare supplement policy?

(3) Are you covered for medical assistance through the Medi-Cal program:

(a) As a specified low-income Medicare beneficiary (SLMB)?

(b) As a qualified Medicare beneficiary (QMB)?

(c) For other Medi-Cal medical benefits?''

(b) Agents shall list any other health insurance policies they have sold to the applicant as follows:

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the

issuer, shall be returned to the applicant by the issuer upon delivery of the policy.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance for delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer as provided in Section 10508. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subdivision (d) for an issuer shall be in the form specified by the commissioner, using, to the extent practicable, a model notice prepared by the National Association of Insurance Commissioners for this purpose. The replacement notice shall be printed in no less than 10-point type in substantially the following form:

[Insurer's name and address]

NOTICE TO APPLICANT PLANNING TO REPLACE MEDICARE SUPPLEMENT COVERAGE

SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE FUTURE.

If you intend to cancel or terminate existing Medicare supplement insurance and replace it with coverage issued by [company name], please review the new coverage carefully and replace the existing coverage ONLY if the new coverage materially improves your position. DO NOT CANCEL YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

If you decide to purchase the new coverage, you will have 30 days after you receive the policy to return it to the insurer, for any reason, and receive a refund of your money.

If you want to discuss buying Medicare supplement insurance with a trained insurance counselor, call the California Department of Insurance's toll-free telephone number 1-800-927-HELP, and ask how to contact your local Health Insurance Counseling and Advocacy Program (HICAP) office. HICAP is a service provided free of charge by the State of California.

STATEMENT TO APPLICANT FROM THE INSURER AND AGENT: I have reviewed your current health insurance coverage. To the best of my knowledge, the replacement of insurance involved in this transaction does not duplicate coverage. In addition, the replacement coverage contains benefits that are clearly and substantially greater than your current benefits for the following reasons:

__ Additional benefits that are: _____

__ No change in benefits, but lower premiums.

__ Fewer benefits and lower premiums.

__ Other reasons specified here: _____

DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO KEEP IT.

_____

(Signature of Agent, Broker, or Other Representative)

_____

(Signature of Applicant)

_____

(Date)

(f) No issuer, broker, agent, or other person shall cause an insured to replace a Medicare supplement insurance policy unnecessarily. In recommending replacement of any Medicare supplement insurance, an agent shall make reasonable efforts to determine the appropriateness to the potential insured.

10192.185. In addition to any other requirements of law, the following shall apply to a Medicare supplement policy:

(a) The issuer shall not require an amount greater than one month's premium to be submitted with an application for the policy of insurance if interim coverage is not provided. If interim coverage is provided, the issuer shall not require an amount greater than two months' premium for that purpose. No further premiums may be collected until the policy is delivered to the applicant.

(b) The issuer shall notify the applicant within 60 days from the date the issuer or issuer's authorized representative or producer receives the application and the amount as to whether or not the applicant will be issued a policy of insurance. If the applicant is not so notified, the issuer or issuer's authorized representative or producer shall pay interest to the applicant on the funds that the applicant submitted with the application, at the legal rate of interest on judgments as provided in Section 685.010 of the Code of Civil Procedure, from the date the issuer or issuer's

authorized representative or producer received those funds until they are refunded to the applicant or are applied toward the premium.

10192.19. (a) An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio, or television medium to the commissioner for review at least 30 days before dissemination of the advertisement. The advertisement shall comply with all applicable laws of California.

(b) A television, radio, mail, or newspaper advertisement which is designed to produce leads either by use of a coupon or a request to write or otherwise contact the issuer, a production agent, or other person or a subsequent advertisement prior to contact shall include information disclosing that an agent may contact the applicant if that is the fact. In addition, an agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead generating device shall disclose that fact in the initial contact with the consumer.

(c) No issuer, agent, broker, solicitor, or other person or other entity shall solicit residents of this state for the purchase of a Medicare supplement policy through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of the entity or person or the true purpose of the advertisement.

(d) For purposes of this section, an advertisement includes envelopes, stationery, business cards, or other materials designed to describe and encourage the purchase of a Medicare supplement policy.

(e) Advertisements may not employ words, letters, initials, symbols, or other devices which are so similar to those used by governmental agencies, a nonprofit or charitable institution, senior organization, or other insurer that they could have the capacity or tendency to mislead the public. Examples of misleading materials, include, but are not limited to, those which imply any of the following:

(1) The advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurer.

(2) The advertiser is the same as, is connected with, or is endorsed by, the governmental agencies, other entity, or other insurers.

(3) That the advertised coverages are somehow provided by or are endorsed by the governmental agencies, other entity, or other insurers.

(f) No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.

(g) No advertisement may use any name, service mark, slogan, symbol, or a device in any manner that implies that the issuer or the Medicare supplement policy advertised, or that any agency who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(h) No advertisement shall be used that fails to prominently display the disclaimer to the effect of ''Not Connected with or endorsed by the U.S. Government or the federal Medicare program.''

(i) No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state, or local law if he or she fails to respond to the advertisement.

(j) An issuer, agent, broker, or other entity may not use an address so as to mislead or deceive as to the true identity, location, or licensing status of the issuer, agent, broker, or other entity.

(k) No issuer may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive, or mislead a prospective purchaser.

(*l*) All advertisements used by agents, producers, brokers, solicitors, or other persons of an issuer must have prior written approval of the issuer before they may be used.

(m) No issuer, agent, broker, or other entity may solicit a particular class by use of advertisements which state or imply that the occupational or other status as members of the class entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

10192.195. The commissioner may prescribe by regulation a standard form and the contents of an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by regulation that the information brochure be provided to any applicant eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any applicant eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

10192.20. (a) An issuer, directly or through its producers, shall do each of the following:

(1) Establish marketing procedures to ensure that any comparison of policies by its agents or other producers will be fair and accurate.

(2) Establish marketing procedures to ensure that excessive insurance is not sold or issued.

(3) Display prominently by type, stamp, or other appropriate means, on the first page of the policy, the following:

''Notice to buyer: This policy may not cover all of your medical expenses.''

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant for a Medicare supplement policy already has health insurance and the types and amounts of that insurance.

(5) Establish auditable procedures for verifying compliance with this subdivision.

(b) In addition to the practices prohibited by this code or any other law, the following acts and practices are prohibited:

(1) Twisting, which means knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics, which means employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising, which means making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is the solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(c) The terms ''Medicare supplement,'' ''Medicare Wrap-Around'' and words of similar import shall not be used unless the policy is issued in compliance with this article. The term ''Medigap'' shall not be used.

10192.21. (a) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

10192.22. (a) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement policy or certificate:

(1) Policy and certificate number.

(2) Date of issuance.

(b) The items set forth above must be grouped by individual policyholder.

10192.23. (a) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent that time was spent under the original policy.

(b) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate that has been in effect for at least six months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods for benefits similar to those contained in the original policy or certificate.

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 707

An act to amend Sections 1358.11 and 1358.12 of, and to add and repeal Section 1358.22 of, the Health and Safety Code, and to amend Sections 10192.11, 10192.12, and 10192.20 of, and to add and repeal Section 10194.9 of, the Insurance Code, relating to health insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 1358.11 of the Health and Safety Code, as added by Senate Bill 764 of the 1999-2000 Regular Session, is amended to read:

1358.11. (a) An issuer shall not deny or condition the offering or effectiveness of any Medicare supplement contract available for sale in this state, nor discriminate in the pricing of a contract because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a contract that is submitted prior to or during the six-month period beginning with the

first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from an issuer shall be made available to all applicants who qualify under this subdivision and are 65 years of age or older. Medicare supplement contracts A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer, shall be made available to any applicant who qualifies under this subdivision who is 64 years of age or younger and who does not have End-Stage Renal Disease. This section does not prohibit an issuer in determining subscriber rates from treating applicants who are under 65 years of age and are eligible for Medicare Part B as a separate risk classification.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the director.

(c) Except as provided in subdivision (b) and Section 1358.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the enrollee received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she first becomes eligible for Medicare Part B. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

There shall be a one-time open enrollment period of 120 days commencing on January 1, 2001, for all individuals eligible for Medicare by reason of disability who do not have End-Stage Renal Disease.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, ''employer-sponsored retiree health plan'' includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included covered persons.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the issuer.

(g) (1) An individual who was previously enrolled in, but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000. Within 30 days of January 1, 2000, health plans shall notify their former Medicare enrollees who were terminated during the period specified in paragraph (1) of the new open enrollment period. Health plan notices shall inform the terminated enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling and Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(4) Health plans that terminate Medicare enrollees shall notify those enrollees in the termination notice of the additional open enrollment period authorized by this subdivision. Health plan notices shall inform enrollees of the opportunity to secure advice and assistance from the

Health Insurance Counseling Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(h) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select contract, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy, certificate, or contract. An issuer that offers Medicare supplement contracts shall notify an enrollee of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 2. Section 1358.12 of the Health and Safety Code, as added by Senate Bill 764 of the 1999–2000 Regular Session, is amended to read:

1358.12. (a) (1) With respect to the guaranteed issue of a Medicare supplement contract, eligible persons are those individuals described in subdivision (b) who apply to enroll under the contract not later than 63 days after the date of the termination of enrollment described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement contract.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement contract described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of the Medicare supplement contract because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under the Medicare supplement contract.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide some, all, or substantially all of those supplemental health benefits to the individual and the employer no longer provides the individual with insurance that covers all of the payment for the Part B 20 percent coinsurance.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the director, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the director may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement contract and the enrollment ceases because of the following: the insolvency of the

issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the contract; the issuer of the contract substantially violated a material provision of the contract; or the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the contract's provisions in marketing the contract to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement contract and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select contract.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, or who postpones enrollment in Medicare Part A or Part B while eligible for employer-sponsored coverage and is older than age 65 years, and enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement contract that has a benefit package classified as plan A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement contract in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a contract described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement contract offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the contract,

or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under subdivision (a). That notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the contract, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under subdivision (a). That notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

SEC. 2.5. Section 1358.22 is added to the Health and Safety Code, to read:

1358.22. (a) (1) With respect to the guaranteed issue of a Medicare supplement contract, eligible persons are those individuals described in subdivision (b) who apply to enroll under the contract not later than 63 days after the date of the termination of enrollment described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement contract.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement contract described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of the Medicare supplement contract because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under the Medicare supplement contract.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide some, all, or substantially all of those supplemental health benefits to the individual and the employer no longer provides the individual with insurance that covers all of the payment for the Part B 20-percent coinsurance.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise

discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the director, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the director may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement contract and the enrollment ceases because of the following: the insolvency of the issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the contract; the issuer of the contract substantially violated a material provision of the contract; or the issuer, or an agent or other entity acting on the issuer's behalf,

materially misrepresented the contract's provisions in marketing the contract to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement contract and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select contract.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, or who postpones enrollment in Medicare Part A or Part B while eligible for employer-sponsored coverage and is older than age 65 years, and enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement contract that has a benefit package classified as plan A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement contract in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a contract described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement contract offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the contract, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under subdivision (a). That notice shall be communicated contemporaneously

with the notification of termination. Effective September 30, 2000, for terminations effective January 1, 2001, that notice shall also inform the individual that issuers are required to offer and allow individuals to enroll, during the application period following notification, in at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer. That coverage would be effective on January 1, 2001.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the contract, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement contracts under subdivision (a). That notice shall be communicated within 10 working days of the issuer receiving notification of disenrollment.

(e) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. Section 10192.11 of the Insurance Code, as added by Senate Bill 764 of the 1999–2000 Regular Session, is amended to read:

10192.11. (a) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this subdivision and are 65 years of age or older. Medicare supplement contracts A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer, shall be made available to any applicant who qualifies under this subdivision who is 64 years of age or younger and who does not have End-Stage Renal Disease. This section does not prohibit an issuer in determining premium rates from treating applicants who are under 65 years of age and are eligible for Medicare Part B as a separate risk classification. This section shall not be construed as preventing the exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10192.8.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the commissioner.

(c) Except as provided in subdivision (b) and Section 10192.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she first becomes eligible for Medicare Part B. Every issuer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that issuer at the time of application. Issuers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

There shall be a one-time open enrollment period of 120 days commencing on January 1, 2001, for all individuals eligible for Medicare by reason of disability who do not have End-Stage Renal Disease.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, ''employer-sponsored retiree health plan'' includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(g) (1) An individual who was previously enrolled in but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan. An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement policy, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. An issuer shall notify a policyholder of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 4. Section 10192.12 of the Insurance Code, as added by Senate Bill 764 of the 1999–2000 Regular Session, is amended to read:

10192.12. (a) (1) With respect to the guaranteed issue of a Medicare supplement policy, eligible persons are those individuals described in subdivision (b) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment

described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide some, all, or substantially all of those supplemental health benefits to the individual and the employer no longer provides the individual with insurance that covers all of the payment for the Part B 20-percent coinsurance.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the commissioner, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the commissioner may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because of the following: the insolvency of the issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the policy; the issuer of the policy substantially violated a material provision of the policy; or the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select policy.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, or who postpones enrollment in

Medicare Part A or Part B while eligible for employer-sponsored coverage and is older than age 65 years, and enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement policy that has a benefit package classified as plan A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement policy in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement policy offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

SEC. 5. Section 10192.20 of the Insurance Code, as added by Senate Bill 764 of the 1999–2000 Regular Session, is amended to read:

10192.20. (a) An issuer, directly or through its producers, shall do each of the following:

(1) Establish marketing procedures to ensure that any comparison of policies by its agents or other producers will be fair and accurate.

(2) Establish marketing procedures to ensure that excessive insurance is not sold or issued.

(3) Display prominently by type, stamp, or other appropriate means, on the first page of the policy, the following:

''Notice to buyer: This policy may not cover all of your medical expenses.''

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant for a Medicare supplement policy already has health insurance and the types and amounts of that insurance.

(5) Establish auditable procedures for verifying compliance with this subdivision.

(b) In addition to the practices prohibited by this code or any other law, the following acts and practices are prohibited:

(1) Twisting, which means knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics, which means employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising, which means making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is the solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(c) The terms ''Medicare supplement,'' ''Medicare Wrap-Around'' and words of similar import shall not be used unless the policy is issued in compliance with this article. The term ''medigap'' shall not be used.

(d) The commissioner each year shall prepare a rate guide for Medicare supplement insurance and Medicare supplement contracts. The commissioner each year shall make the rate guide available on or before the date of the fall Medicare annual open enrollment. The rate guide shall include all of the following for each company that sells Medicare supplemental insurance or Medicare supplement contracts in California:

(1) A listing of all the policies, plans A through J, that are available from the company.

(2) A listing of all the policies, plans A through J, for Medicare beneficiaries under the age of 65 that are available from the company.

(3) The toll-free telephone number of the company that consumers can use to obtain information from the company.

(4) Sample rates for each policy listed pursuant to paragraphs (1) and (2). The sample rates shall be for ages 0-65, 65, 70, 75, and 80.

(5) The premium rate methodology for each policy listed pursuant to paragraphs (1) and (2). ''Premium rate methodology'' means attained age, issue age, or community rated.

(6) The waiting period for preexisting conditions for each policy listed pursuant to paragraphs (1) and (2).

(e) The consumer rate guide prepared pursuant to subdivision (d) shall be distributed using all of the following methods:

(1) Through Health Insurance Counseling and Advocacy Program (HICAP) offices.

(2) By telephone, using the department's consumer toll-free telephone number.

(3) On the department's Internet web site.

(4) In addition to the distribution methods described in paragraphs (1) to (3), inclusive, each insurer that markets Medicare supplement insurance or Medicare supplement contracts in this state shall provide on the application form a statement that reads as follows: ''A rate guide is available that compares the policies sold by different insurers. You can obtain a copy of this rate guide by calling the Department of Insurance's consumer toll-free telephone number (1-800-927-HELP), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free telephone number (1-800-434-0222), or by accessing the Department of Insurance's Internet web site (www.insurance.ca.gov).''

SEC. 5.5. Section 10194.9 is added to the Insurance Code, to read:

10194.9. (a) (1) With respect to the guaranteed issue of a Medicare supplement policy, eligible persons are those individuals described in subdivision (b) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subdivision (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subdivision (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(b) An eligible person is an individual described in any of the following paragraphs:

(1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide some,

all, or substantially all of those supplemental health benefits to the individual and the employer no longer provides the individual with insurance that covers all of the payment for the Part B 20-percent coinsurance.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan Medicare Part C, and any of the following apply:

(A) The organization's or plan's certification, under this part, has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856 of that act, or the plan is terminated for all individuals within a residence area.

(C) The individual demonstrates, in accordance with guidelines established by the commissioner, either of the following:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this article in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(D) The individual meets other exceptional conditions as the commissioner may provide.

(3) The individual meets both of the following conditions:

(A) The individual is enrolled with any of the following:

(i) An eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(B) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage

under the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated in paragraph (2) of subdivision (b).

(4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because of the following: the insolvency of the issuer or bankruptcy of the nonissuer organization; the involuntary termination of coverage or enrollment under the policy; the issuer of the policy substantially violated a material provision of the policy; or the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

(5) The individual meets both of the following conditions:

(A) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Medicare Part C, any eligible organization under a contract under Section 1876 of the federal Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) of the federal Social Security Act (health care prepayment plan), or a Medicare Select policy.

(B) The subsequent enrollment under subparagraph (A) is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Medicare Part A at age 65 years, or who postpones enrollment in Medicare Part A or Part B while eligible for employer-sponsored coverage and is older than age 65 years, and enrolls in a Medicare+Choice plan under Medicare Part C, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(c) (1) Under paragraphs (1), (2), (3), and (4) of subdivision (b), eligible persons are entitled to a Medicare supplement policy that has a benefit package classified as plan A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer.

(2) Under paragraph (5) of subdivision (b), eligible persons are entitled to the same Medicare supplement policy in which they were most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in paragraph (1) of subdivision (c).

(3) Under paragraph (6) of subdivision (b), eligible persons are entitled to any Medicare supplement policy offered by any issuer.

(d) (1) At the time of an event described in subdivision (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated contemporaneously with the notification of termination. Effective September 30, 2000, for terminations effective January 1, 2001, that notification shall also inform the individual that issuers must offer and allow individuals to enroll, during the application period following notification, in at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer. That coverage would be effective January 1, 2001.

(2) At the time of an event described in subdivision (b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subdivision (a). That notice shall be communicated within 10 working days of the issuer receiving notification of disenrollment.

(e) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

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

SEC. 7. Sections 1, 2, 3, 4, and 5 of this act shall not become operative unless Senate Bill 764 of the 1999–2000 Regular Session is enacted and becomes operative, and this act is chaptered after Senate Bill 764. In that case, those sections shall become operative on January 1, 2001.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to require timely notification of certain persons whose health care coverage may be terminated effective January 1, 2001, relative to their rights to enroll in Medicare supplement insurance plans that offer coverage for prescription medications, it is necessary that this act take effect immediately.

CHAPTER 708

An act to amend Section 10750 of, and to add Part 2.78 (commencing with Section 10795) to Division 6 of, the Water Code, relating to water.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 10750 of the Water Code is amended to read:

10750. (a) The Legislature finds and declares that groundwater is a valuable natural resource in California, and should be managed to ensure both its safe production and its quality. It is the intent of the Legislature to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions.

(b) The Legislature also finds and declares that additional study of groundwater resources is necessary to better understand how to manage groundwater effectively to ensure the safe production, quality, and proper storage of groundwater in this state.

SEC. 2. Part 2.78 (commencing with Section 10795) is added to Division 6 of the Water Code, to read:

PART 2.78. LOCAL GROUNDWATER MANAGEMENT ASSISTANCE ACT OF 2000

10795. This part shall be known and may be cited as the Local Groundwater Management Assistance Act of 2000.

10795.2. There is hereby created the Local Groundwater Assistance Fund which shall be administered by the department.

10795.4. Upon appropriation by the Legislature, the money in the fund may be used by the department to assist local public agencies by awarding grants to those agencies to conduct groundwater studies or to carry out groundwater monitoring and management activities in accordance with Part 2.75 (commencing with Section 10750) or other authority pursuant to which local public agencies manage groundwater resources, or both.

10795.6. The department, in making grants pursuant to this part, shall do both of the following:

(a) Award grants based on the recommendations submitted by the Technical Advisory Panel. The panel shall give priority to a local public agency that has adopted a groundwater management plan and submitted an application that demonstrates collaboration by that local public agency with other local public agencies with regard to the management of the affected groundwater basin.

(b) Ensure that the money in the fund is allocated in a geographically balanced manner among the regions of the state that are capable of, and interested in, implementing groundwater management programs.

10795.8. The department may enter into contracts and may adopt regulations subject to the advice and review of the Technical Advisory Panel, to carry out this part. Any grant contract entered into pursuant to this part may include provisions that the department determines are necessary.

10795.10. An application for a grant under this part shall be made to the department in the form and with the supporting materials prescribed by the department.

10795.12. (a) A Technical Advisory Panel shall review applications for grants based on criteria developed by the panel.

(b) The Technical Advisory Panel shall review applications and indicate whether, in its opinion, an application should be given priority pursuant to subdivisions (a) and (b) of Section 10795.6, and may place conditions on its recommendation for the funding of a specific project. These conditions may include requirements for additional clarification or further explanation of certain aspects of the project.

10795.14. (a) The Technical Advisory Panel shall be comprised of individuals appointed by the Secretary of the Resources Agency.

(b) (1) Panelists shall have background experience, or general knowledge, in the area of groundwater resources.

(2) Panelists shall include all of the following:

(A) At least three individuals who currently serve on the board of directors of a local public agency that has adopted a groundwater management plan.

(B) A licensed civil engineer.

(C) A licensed geologist.

(D) A licensed hydrogeologist.

(E) At least one individual representing each of the hydrologic study areas shown in Figure 3 of the department's Bulletin 118-80, entitled ''Ground Water Basins in California: A Report to the Legislature in Response to Water Code Section 12924.''

(c) The number of individuals serving on the Technical Advisory Panel shall be determined by the Secretary of the Resources Agency.

10795.16. (a) If a member of the Technical Advisory Panel, or a member of his or her immediate family, is employed by a grant applicant , the employer of a grant applicant, or a consultant or independent contractor employed by a grant applicant, the panel member shall make that disclosure to the other members of the panel and shall not participate in the review of the grant application of that applicant.

(b) The Technical Advisory Panel shall operate on principles of collaboration. Panelists shall be appointed who are committed to working together with other interests for the long-term benefit of California groundwater resources and the people who rely on those resources.

(c) Panelists shall be residents of the state and have an interest in the preservation, protection, and enhancement of the state's groundwater resources.

(d) Panelists shall not be employees of any state or federal agency.

10795.19. A local public agency receiving a grant under this part shall submit to the department copies of all data collected pursuant to the grant.

10795.20. Federal funds may be used for the purposes of this part.

SEC. 3. (a) Of the funds appropriated in Provision 8 of Item 3860-001-0001 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000), the Department of Water Resources shall use five million dollars ($5,000,000) for the purposes of Part 2.78 (commencing with Section 10795) of Division 6 of the Water Code. Of that amount, not more than two hundred twenty thousand dollars ($220,000) may be used to defray administrative costs.

(b) Notwithstanding subdivision (a), the Department of Water Resources may not expend the funds specified in that subdivision unless and until the expenditure condition set forth in Provision 8 of Item 3860-001-0001 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) is satisfied.

CHAPTER 709

An act relating to conservation camps, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. The Legislature finds and declares the following:

(a) California has experienced dramatic increases in wildfire and flood losses, and in the cost to fight these losses during the last decade. Annual fire losses have doubled in the last five years. Handcrews to fight wildfires or floods and other emergencies are in short supply. On average, California has imported 187 paid fire crews each fire season over the last five years. During the 1999 fire season, the state expended twenty million dollars ($20,000,000) to import and use these crews. During this period, some low-cost inmate crews in conservation camps were unable to assist due to lack of tools, transportation, and supervision.

(b) Watershed health across the state has declined creating a large backlog of environmentally sensitive, labor intensive, restoration work ideally suited for inmate crews and California Conservation Corps crews.

(c) Conservation camp inmates provide a very economical way for the State of California to deal with the foregoing problems while minimizing organizational buildup. Each inmate provides an annual return to the state of over twenty-six thousand dollars ($26,000) in productive work, while costing taxpayers only thirteen thousand dollars ($13,000) per year.

(d) Conservation camps have provided over 2,000,000 work-hours of emergency fire and flood assistance to the state and over 4,000,000 work-hours of resource, environmental, and community service in a single year.

(e) Lower disciplinary and custodial costs result due to the fact that the hard-working emergency response team activities curtail disciplinary problems associated with idle time in prisons.

(f) Shortened incarceration time helps nonviolent inmates who reduce their sentence by performing meaningful work.

(g) Conservation camps provide significant rehabilitation benefits, as recidivism rates are reduced by the opportunity to learn strong work ethics, teamwork and job satisfaction, and by assisting communities, farms, and the state's natural resources.

(h) Minimum-security conservation centers cost less to construct than ''hardwall'' facilities and considerably less to operate.

SEC. 2. It is the intent of the Legislature to continue to expand the conservation camp program to provide additional beds for low-level inmates and at the same time provide additional capabilities to prevent and deal with fire, flood, earthquake, and other emergencies in the State of California in a more cost-effective manner. Therefore, the Secretary of the Resources Agency, after consultation with the Secretary of the Youth and Adult Correctional Agency, the California Conservation Corps, and other benefiting agencies, shall by November 1, 2001, report

to the Legislature and the Governor on additional inmate and civilian conservation camp construction or expansion needs.

SEC. 3. The Department of Corrections shall maximize the availability of conservation camp qualified inmates, subject to all of the following requirements:

(a) Necessary health and safety requirements shall be met at other facilities of the department.

(b) Public safety screening and training conditions and standards shall be maintained.

(c) The need for additional inmate positions at existing, expanded, or new conservation camps shall be considered.

SEC. 4. Subject to the appropriation of funds for this purpose in the annual Budget Act, the Department of Forestry and Fire Protection shall reactivate an additional 20-person crew module at each of the following 17 conservation camps, for the purpose of providing necessary training, vehicles, and equipment: Baseline, Bautista, Delta, Devils Garden, Eel River, Fenner Canyon, Gabilian, Growlersburg, McCain Valley, Oak Glen, Owens Valley, Preston/Pine Grove, Puerta La Cruz, Salt Creek, Sugar Pine, Trinity River, and Valley View.

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 improve the ability of the conservation camp program to provide emergency services in event of fire, flood, or earthquake at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 710

An act relating to parks and recreation.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. (a) The Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (The Villaraigosa-Keeley Act) (Proposition 12 of the March 7, 2000, primary election; Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code) provides fifty million dollars ($50,000,000) in supplemental funds to cities and districts with populations under 200,000 in urbanized counties with populations of

200,000 or greater pursuant to subdivision (f) of Section 5096.310 and subdivision (b) of Section 5096.336 of the Public Resources Code. Subdivision (g) of Section 5096.310 of the Public Resources Code provides two hundred million dollars ($200,000,000) in grants to cities, counties, and districts for the acquisition, development, rehabilitation, and restoration of park and recreation areas and facilities pursuant to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code).

(b) Of the 444 cities and districts in urbanized counties throughout the state, all but five cities and one district (Stockton, Bakersfield, Fremont, Glendale, and Riverside and the Hayward Area Recreation and Park District) qualify for supplemental per capita funding, as either ''small cities'' and ''districts'' having a population under 200,000 or heavily ''urbanized areas'' having a population over 300,000, as eligible cities under the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act. This inequity was not intended by the drafters of the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 or by the Legislature.

(c) It is the intent of the Legislature that the omitted five cities and one district receive supplemental per capita funding on the same basis as eligible cities with populations over 300,000 persons under the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act.

(d) Funds shall be allocated to the Cities of Stockton, Bakersfield, Fremont, Glendale, and Riverside and the Hayward Area Recreation District when funds are appropriated to the Department of Parks and Recreation for that purpose, from a source other than the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund, in the annual Budget Act. The department shall allocate these funds using the same criteria, dollar rate, and procedures as it employs to allocate funds to local agencies with populations over 300,000 and eligible for funding under the block grant portion of the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act. Any amount in excess of the amount necessary to make that allocation shall revert to the General Fund.

(e) Funds appropriated for the purposes of subdivision (d) shall be available for encumbrance for three years after the date upon which funds first become available for encumbrance or, as allowed under Section 16304 of the Government Code, whichever period is longer.

(f) Disbursements in liquidation of encumbrances shall be made before the expiration of five years following the last day the appropriation is available for encumbrance pursuant to subdivision (e)

or, in accordance with Section 16304.1 of the Government Code, whichever period is longer.

CHAPTER 711

An act to amend Sections 32603 and 32605 of the Public Resources Code, relating to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy Act.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 32603 of the Public Resources Code is amended to read:

32603. As used in this division, the following terms have the following meaning:

(a) ''Board'' means the governing board of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.

(b) ''Conservancy'' means the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy. The conservancy may also be known as the Rivers and Mountains Conservancy.

(c) (1) ''Territory'' means the territory of the conservancy that consists of those portions of Los Angeles County and Orange County located within the San Gabriel River and its tributaries, the lower Los Angeles River and its tributaries, and the San Gabriel Mountains, including, without limitation, all of the following:

(A) The hydrologic basin or watershed that coincides with the upper San Gabriel River watershed, including the Upper Rio Hondo tributary, but not including any land area within the Santa Monica Mountains Conservancy as described in Chapter 2 (commencing with Section 33100) and Chapter 3 (commencing with Section 33200) of Division 23. The hydrologic basin or watershed is bounded by the San Gabriel Mountains to the north, the San Jose Hills to the east, the Puente Hills to the south, and by a series of hills and the Raymond Fault to the west.

(B) The hydrologic basin or watershed that coincides with the lower San Gabriel River watershed.

(C) The San Gabriel Mountains, including the Foothills Mountains Conservancy and the Puente Hills and San Jose Hills area, except any land area within the Santa Monica Mountains Conservancy as described in Chapter 2 (commencing with Section 33100) and Chapter 3 (commencing with Section 33200) of Division 23.

(D) The hydrologic basin or watershed that coincides with the lower Los Angeles River south of the northernmost boundary of the City of Vernon, as of June 1, 1999, except any land area within the Santa Monica Mountains Conservancy, as described in Chapter 2 (commencing with Section 33100) and Chapter 3 (commencing with Section 33200) of Division 23.

(2) To assist persons in understanding the breadth of the territory included within the territory described in paragraph (1), the Legislature declares that that territory includes the territory in all of the following cities and areas:

(A) The territory within the city boundaries, as of January 1, 2000, of the following cities: Alhambra, Anaheim, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bell Gardens, Bellflower, Bradbury, Brea, Buena Park, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Cypress, Diamond Bar, Downey, Duarte, El Monte, Fullerton, Glendora, Hawaiian Gardens, Huntington Park, Industry, Irwindale, La Habra, La Habra Heights, La Mirada, La Palma, La Puente, La Verne, Lakewood, Long Beach, Los Alamitos, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Paramount, Pico Rivera, Placentia, Pomona, Rosemead, San Dimas, San Gabriel, Santa Fe Springs, Seal Beach, Signal Hill, South El Monte, South Gate, Temple City, Vernon, Walnut, West Covina, and Whittier.

(B) The unincorporated areas of Los Angeles County and Orange County adjacent to the San Gabriel River and its tributaries, the lower Los Angeles River and its tributaries, the San Gabriel Mountains, the Foothill Mountains, the Puente Hills, and the San Jose Hills area including, but not limited to, East Los Angeles.

(d) Nothing in this section shall affect the jurisdiction of any other state conservancy.

SEC. 2. Section 32605 of the Public Resources Code is amended to read:

32605. The board shall consist of 13 voting members and seven nonvoting members, as follows:

(a) The 13 voting members of the board shall consist of all of the following:

(1) One member of the Board of Supervisors of the County of Los Angeles who represents the area or a portion thereof contained within the territory of the conservancy, appointed by the Governor.

(2) Two members of the board of directors of the San Gabriel Valley Council of Governments, one of whom shall be a mayor or city council member of a city bordering along the San Gabriel River, and one of whom shall be a mayor or city council member of a city bordering the San Gabriel Mountains area. One member shall be appointed by a majority of the membership of that board of directors, and one member

shall be appointed by the Senate Committee on Rules from a list of two or more potential members submitted by the board of directors.

(3) Two members of the board of directors of the Gateway Cities Council of Governments, one of whom shall be the mayor of the City of Long Beach or a city council member of the City of Long Beach appointed by the mayor, and one of whom shall be appointed by the Speaker of the Assembly from a list of two or more potential members submitted by the executive committee of the board of directors of the Gateway Cities Council of Governments. The executive committee shall submit lists of potential members to the Speaker of the Assembly until an acceptable member is appointed.

(4) Two members of the Orange County Division of the League of California Cities, both of whom shall be a mayor or city council member of a city bordering along the San Gabriel River or a tributary thereof. One member shall be appointed by a majority of the membership of the city selection committee of Orange County, and one member shall be appointed by the Governor from a list of two or more potential members submitted by the city selection committee.

(5) One member shall be a representative of a member of the San Gabriel Valley Water Association appointed by a majority of the membership of the board of directors of the San Gabriel Valley Water Association.

(6) One member shall be a representative of the Central Basin Water Association appointed by a majority of the membership of the board of directors of the Central Basin Water Association.

(7) One member shall be a resident of Los Angeles County appointed by the Governor from a list of potential members submitted by local, state, and national environmental organizations that operate within the County of Los Angeles and within the territory of the conservancy and that have participated in planning for river restoration or open space, or both, or river preservation.

(8) The Secretary of the Resources Agency, or his or her designee.

(9) The Secretary for Environmental Protection, or his or her designee.

(10) The Director of Finance, or his or her designee.

(b) The seven ex officio, nonvoting members shall consist of the following officers or an employee of each agency designated annually by that officer to represent the office or agency:

(1) The District Engineer of the United States Army Corps of Engineers.

(2) The Regional Forester for the Pacific Southwest Region of the United States Forest Service.

(3) The Director of the Los Angeles County Department of Public Works.

(4) The Director of the Orange County Public Facility and Resource Department.

(5) A member of the San Gabriel River Watermaster, appointed by a majority of the members of the San Gabriel River Watermaster.

(6) The Director of Parks and Recreation.

(7) The Executive Officer of the Wildlife Conservation Board.

CHAPTER 712

An act to amend Section 10631 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

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

SECTION 1. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments as described in subdivision (a).

(c) Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

(1) An average water year.

(2) A single dry water year.

(3) Multiple dry water years.

For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to replace that source with alternative sources or water demand management measures, to the extent practicable.

(d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e) (1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use sectors including, but not necessarily limited to, all of the following uses:

(A) Single-family residential.

(B) Multifamily.

(C) Commercial.

(D) Industrial.

(E) Institutional and governmental.

(F) Landscape.

(G) Sales to other agencies.

(H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

(I) Agricultural.

(2) The water use projections shall be in the same five-year increments as described in subdivision (a).

(f) Provide a description of the supplier's water demand management measures. This description shall include all of the following:

(1) A description of each water demand management measure that is currently being implemented, or scheduled for implementation, including the steps necessary to implement any proposed measures, including, but not limited to, all of the following:

(A) Water survey programs for single-family residential and multifamily residential customers.

(B) Residential plumbing retrofit.

(C) System water audits, leak detection, and repair.

(D) Metering with commodity rates for all new connections and retrofit of existing connections.

(E) Large landscape conservation programs and incentives.

(F) High-efficiency washing machine rebate programs.

(G) Public information programs.

(H) School education programs.

(I) Conservation programs for commercial, industrial, and institutional accounts.

(J) Wholesale agency programs.

(K) Conservation pricing.

(L) Water conservation coordinator.

(M) Water waste prohibition.

(N) Residential ultra-low-flush toilet replacement programs.

(2) A schedule of implementation for all water demand management measures proposed or described in the plan.

(3) A description of the methods, if any, that the supplier will use to evaluate the effectiveness of water demand management measures implemented or described under the plan.

(4) An estimate, if available, of existing conservation savings on water use within the supplier's service area, and the effect of such savings on the supplier's ability to further reduce demand.

(g) An evaluation of each water demand management measure listed in paragraph (1) of subdivision (f) that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration shall be given to water demand management measures, or combination of measures, that offer lower incremental costs than expanded or additional water supplies. This evaluation shall do all of the following:

(1) Take into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

(2) Include a cost-benefit analysis, identifying total benefits and total costs.

(3) Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.

(4) Include a description of the water supplier's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

(h) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the ''Memorandum of Understanding Regarding Urban Water Conservation in California,'' dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

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 identify water demand management measures that are being implemented by urban water suppliers as soon as possible, it is necessary that this act take effect immediately.

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