

Volume 5

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

2001

Constitution of 1879 as Amended

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

2001-02 Regular Session

2001-02 First Extraordinary Session

2001-02 Second Extraordinary Session



Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 931

An act to amend Sections 23800, 23817.7, 23985.5, and 23987 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

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

(a) Local jurisdictions have the primary responsibility to protect their citizens, and the sale of alcoholic beverages in a community often exacerbates difficulties in providing adequate public safety protection.

(b) While the Department of Alcoholic Beverage Control permits local jurisdictions to recommend conditions regarding an application for an alcoholic beverage license, the timeframe for review is insufficient to conduct an adequate investigation and develop, if needed, appropriate conditions to recommend to the department.

(c) Local jurisdictions are greatly concerned about the capacity of the department to assist with law enforcement problems associated with licensees, as the department has only about 200 officers for approximately 70,000 licensees.

(d) In order to improve the ability of local jurisdictions to gain community input and better evaluate various options related to a specific application, local jurisdictions should be given an extended period of time to review license applications, notices of license applications to affected residences should be enhanced, and the department should be provided additional funding to support law enforcement efforts.

SEC. 2. Section 23800 of the Business and Professions Code is amended to read:

23800. The department may place reasonable conditions upon retail licensees or upon any licensee in the exercise of retail privileges in the following situations:

(a) If grounds exist for the denial of an application for a license or where a protest against the issuance of a license is filed and if the department finds that those grounds may be removed by the imposition of those conditions.

(b) Where findings are made by the department which would justify a suspension or revocation of a license, and where the imposition of a condition is reasonably related to those findings. In the case of a suspension, the conditions may be in lieu of or in addition to the suspension.

(c) Where the department issues an order suspending or revoking only a portion of the privileges to be exercised under the license.

(d) Where findings are made by the department that the licensee has failed to correct objectionable conditions within a reasonable time after receipt of notice to make corrections given pursuant to subdivision (e) of Section 24200.

(e) (1) At the time of transfer of a license pursuant to Section 24071.1, 24071.2, or 24072 and upon written notice to the licensee, the department may adopt conditions requested by the local governing body, or its designated subordinate officer or agency, in whose jurisdiction the license is located. The request for conditions shall be supported by substantial evidence that the problems either on the premises or in the immediate vicinity identified by the local governing body or its designated subordinate officer or agency will be mitigated by the conditions. Upon receipt of the request for conditions, the department shall either adopt the conditions requested or notify the local governing body, or its designated subordinate officer or agency, in writing of its determination that there is not substantial evidence that the problem exists or that the conditions would not mitigate the problems identified. The department may adopt conditions requested pursuant to this paragraph only when the request is filed within the time authorized for a local law enforcement agency to file a protest or proposed conditions pursuant to Section 23987.

(2) If the license to be transferred subject to paragraph (1) is located in an area of undue concentration as defined in Section 23958.4, the period within which the local governing body or its designated subordinate officer or agency may submit a written request for conditions shall be 40 days after the mailing of the notices required by Section 23987. For purposes of this provision only, undue concentration shall be established when the requirements of both paragraph (1) of subdivision (a) and either paragraph (2) or paragraph (3) of subdivision (a) of Section 23958.4 exist. Pursuant to Section 23987, the department may extend the 40-day period for a period not to exceed an additional 20 days upon the written request of any local law enforcement agency or local government entity with jurisdiction. Nothing in this paragraph is intended to reduce the burden of the local governing body or its designated subordinate officer or agency to support any request for conditions as required by paragraph (1). Notwithstanding Section 23987, the department may not transfer any license subject to this paragraph until after the time period permitted to request conditions as specified in this paragraph.

SEC. 3. Section 23817.7 of the Business and Professions Code is amended to read:

23817.7. (a) Notwithstanding Section 23817.5, the department may approve an application for an off-sale beer and wine license in areas covered by Section 23817.5, if the applicant shows that public

convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

(1) The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

(2) The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

(3) The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

SEC. 4. Section 23985.5 of the Business and Professions Code is amended to read:

23985.5. (a) Notwithstanding any other provision of this article, in any instance affecting the issuance of any retail license at a premises that is not currently licensed or for a different retail license, the department shall require that the applicant mail notification of the application to every resident and owner of real property within a 500-foot radius of the premises for which the license is to be issued.

(b) The department shall require the applicant to provide notification to the owners of real property, as required in subdivision (a), only if the local jurisdiction in which the license is to be issued provides, free of charge, a list of the names and addresses of the owners to the applicant.

(c) For the notification required by subdivision (a), the department shall develop bilingual notices in English and Spanish. The notice shall include information on how to obtain the notice information in a minimum of three of the predominant languages other than English or Spanish in the state, according to the most recent United States decennial or special census information.

SEC. 5. Section 23987 of the Business and Professions Code is amended to read:

23987. Upon the receipt by the department of an original application for any license or an application for transfer of any license, written notice thereof, consisting of a copy of the application, shall immediately be mailed by the department to the sheriff, chief of police, and district attorney of the locality in which the premises are situated, to the city or county planning director, whoever has jurisdiction, the board of supervisors of the county in which the premises are situated, if in unincorporated territory, and to the city council or other governing body of the city in which the premises are situated, if within an incorporated area.

Except as specified in paragraph (2) of subdivision (e) of Section 23800, no license shall be issued or transferred by the department until at least 30 days after the mailing by the department of the notices required by this section. The department may extend the 30-day period specified in the preceding sentence for a period not to exceed an additional 20 days, upon the written request of any local law enforcement agency that states proper grounds for extension. Proper grounds for extension are limited to the requesting agency or official being in the process of preparing either a protest or proposed conditions with respect to the issuance or transfer of a license.

CHAPTER 932

An act relating to local public services, and making an appropriation therefor.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

I have signed Assembly Bill 936 with a reduction.

This bill would appropriate \$1.75 million General Fund to the Department of Housing and Community Development (HCD) to provide a grant to the City of San Diego to purchase two facilities for the homeless. The bill would also clarify that funds appropriated in the Budget Act of 2001 to the City of San Diego for a grant to the Stein Education Center shall be allocated directly to the Education Center; reappropriate funds provided in the Budget Act of 2000 for the Guadalupe Trail in the City of San Jose; and would revise provisions in the Budget Act of 2001 to direct the Department of Boating and Waterways to recalculate a specified loan to the owner of a marina at Lake Oroville.

I am reducing the appropriation to HCD from \$1.75 million to \$750,000 due to fiscal constraints and limited resources in the General Fund.

GRAY DAVIS, Governor

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

SECTION 1. The sum of one million seven hundred fifty thousand dollars (\$1,750,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development to provide a grant to the City of San Diego to purchase two 25-bed facilities for homeless persons who are diagnosed with severe mental illness.

SEC. 2. Notwithstanding Schedule (b) (109) of Item 3790-101-0001 of the Budget Act of 2001 (Chapter 106, Statutes of 2001), the sum of twenty thousand dollars (\$20,000) shall be allocated directly to the Stein Education Center for the purpose of its play area upgrade, rather than to the City of San Diego.

SEC. 3. The funds reappropriated by Item 0540-491 of Chapter 672 of the Statutes of 2000 for the Guadalupe River Parkway in the City of San Jose are hereby reappropriated for the establishment and development of the Guadalupe Trail in the City of San Jose, and areas surrounding the city, subject to the limitations, unless otherwise specified, provided for in the original appropriation of those funds by Item 0540-103-0001 of Section 2.00 of the Budget Act of 1999 (Ch. 50, Stats. 1999).

SEC. 4. The provisions of Item 3680-101-0516 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. of 2001) are revised to add the following provision:

2. The Department of Boating and Waterways shall recalculate the amount of principal owed by Funtime-Fulltime, Inc. pursuant to a loan made by the department to finance improvements to the Bidwell Canyon Marina, located at Lake Oroville. The recalculation shall take into consideration those items financed by the principal of the loan that are traditionally provided by the state in similar instances involving the state park and recreation system. The recalculation may result in a reduction in the amount of principal due under loan by an amount not to exceed \$370,000.

CHAPTER 933

An act to amend Sections 19582, 19605.73, and 19661 of, and to add Section 19517.5 to, the Business and Professions Code, relating to horse racing.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 19517.5 is added to the Business and Professions Code, to read:

19517.5. (a) Enforcement proceedings that allege the use of a prohibited substance, as defined under class I, class II, or class III of the board's schedule of prohibited substances, shall be referred directly to the Office of Administrative Hearings for administrative adjudication and preparation of a proposed decision for action by the board, unless both the licensee and the board waive that referral.

(b) The hearing before an administrative law judge shall commence no later than 90 days after the filing of the accusation. The administrative law judge may extend the hearing date only upon a showing of good cause to the earliest possible hearing date beyond the 90-day period, provided a written order and the reasons for the continuance are filed with the board.

(c) No later than 20 days before the hearing, the licensee shall post a bond with the paymaster of purses for the amount of the purse or purses in question and received by the licensee. The bond shall be in cash, or a surety bond that meets the requirements of the board.

(d) (1) The board shall neither modify nor amend a proposed decision by the administrative law judge so as to increase any sanction or penalty contemplated in the proposed decision.

(2) The board may, by means of a written decision that includes the reasons for its decision, modify or amend a proposed decision by the administrative law judge so as to decrease, mitigate, or suspend a sanction or penalty contemplated in the proposed decision.

SEC. 2. Section 19582 of the Business and Professions Code is amended to read:

19582. (a) (1) Violations of Section 19581, as determined by the board, are punishable as set forth in regulations adopted by the board.

(2) The board may classify violations of Section 19581 based upon each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime.

(3) (A) The board may provide for the suspension of a license for not more than three years, except as provided in subdivision (b), or a monetary penalty of not more than fifty thousand dollars (\$50,000), or both, and disqualification from purses, for a violation of Section 19581.

(B) The actual amount of the monetary penalty imposed pursuant to this paragraph shall be determined only after due consideration has been given to all the facts, circumstances, acts, and intent of the licensee, and shall not be solely based on the trainer-insurer rule, as established in Sections 1843 and 1887 of Title 4 of the California Code of Regulations.

(4) The punishment for second and subsequent violations of Section 19581 shall be greater than the punishment for a first violation of Section 19581 with respect to each class of prohibited drug substances, unless the administrative law judge, in findings of fact and conclusions of law filed with the board, concludes that a deviation from this general rule is justified.

(b) (1) A third violation of Section 19581 during the lifetime of the licensee, determined by the board to be at a class I or class II level, may result in the permanent revocation of the person's license.

(2) The administrative law judge shall, after consideration of the circumstances surrounding a violation specified in paragraph (1), file a decision with the board that includes findings of fact and conclusions of law.

(c) Any person whose license is suspended or revoked pursuant to this section shall not be entitled to receive any material benefit or remuneration in any capacity or from any business activity permitted or allowed by the license during any period of its suspension or revocation.

(d) The penalties provided by this section are in addition to any other civil, criminal, and administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other penalties or sanctions.

SEC. 3. Section 19605.73 of the Business and Professions Code is amended to read:

19605.73. (a) Racing associations, fairs, and the organization responsible for contracting with racing associations and fairs with respect to the conduct of racing meetings, may form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing. The organization shall consist of the following members: two members, one from the northern zone and one from the combined central and southern zones, appointed by the thoroughbred racetracks; two members, one from the northern zone and one from the combined central and southern zones, appointed by the owners' organization responsible for contracting with associations and fairs with respect to the conduct of racing meetings; and two members, one from the northern zone and one from the combined central and southern zones, appointed by the organization representing racing and satellite fairs.

(b) The marketing organization formed pursuant to subdivision (a) shall annually submit to the board a statewide marketing and promotion plan for thoroughbred and fair horse racing that encompasses all geographical zones in the state, and which includes the manner in which funds were expended in the implementation of the plan for the previous calendar year. The plan shall be implemented as determined by the organization. The organization shall receive input from all interested

industry participants and may utilize outside consultants in developing the annual marketing plan.

(c) In addition to the distributions specified in subdivisions (a) and (b) of Section 19605.7, and in Sections 19605.71 and 19605.72, for thoroughbred and fair meetings only, from the amount that would normally be available for commissions and purses, an amount equal to 0.4 percent of the total amount handled by each satellite wagering facility shall be distributed to the statewide marketing organization formed pursuant to subdivision (a) for the promotion of thoroughbred and fair horse racing. Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(d) This section shall become inoperative on July 1, 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. Any moneys held by the organization shall, in the event this section is repealed, be distributed to the organization formed pursuant to Section 19608.2, for purposes of that section.

SEC. 4. Section 19661 of the Business and Professions Code is amended to read:

19661. (a) Any person who violates any of the provisions of this chapter for which a penalty is not herein expressly provided, is guilty of a misdemeanor.

(b) Unless otherwise expressly provided, the board may impose a monetary penalty of not more than one hundred thousand dollars (\$100,000) for a violation of any of the provisions of this chapter.

CHAPTER 934

An act to amend Section 3600 of the Penal Code, relating to capital punishment.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 3600 of the Penal Code is amended to read:
3600. (a) Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the California state prison designated by the department for the execution of the death

penalty, there to be kept until the execution of the judgment, except as provided in subdivision (b).

(b) Notwithstanding any other provision of law:

(1) A condemned inmate who, while in prison, commits any of the following offenses, or who, as a member of a gang or disruptive group, orders others to commit any of these offenses, may, following disciplinary sanctions and classification actions at San Quentin State Prison, pursuant to regulations established by the Department of Corrections, be housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento:

(A) Homicide.

(B) Assault with a weapon or with physical force capable of causing serious or mortal injury.

(C) Escape with force or attempted escape with force.

(D) Repeated serious rules violations that substantially threaten safety or security.

(2) The condemned housing program at California State Prison, Sacramento, shall be fully operational prior to the transfer of any condemned inmate.

(3) Specialized training protocols for supervising condemned inmates shall be provided to those line staff and supervisors at the California State Prison, Sacramento, who supervise condemned inmates on a regular basis.

(4) An inmate whose medical or mental health needs are so critical as to endanger the inmate or others may, pursuant to regulations established by the Department of Corrections, be housed at the California Medical Facility or other appropriate institution for medical or mental health treatment. The inmate shall be returned to the institution from which the inmate was transferred when the condition has been adequately treated or is in remission.

(c) When housed pursuant to subdivision (b) the following shall apply:

(1) Those local procedures relating to privileges and classification procedures provided to Grade B condemned inmates at San Quentin State Prison shall be similarly instituted at California State Prison, Sacramento, for condemned inmates housed pursuant to paragraph (1) of subdivision (b) of Section 3600. Those classification procedures shall include the right to the review of a classification no less than every 90 days and the opportunity to petition for a return to San Quentin State Prison.

(2) Similar attorney-client access procedures that are afforded to condemned inmates housed at San Quentin State Prison shall be afforded to condemned inmates housed in secure condemned housing designated by the Director of Corrections, at the California State Prison,

Sacramento. Attorney-client access for condemned inmates housed at an institution for medical or mental health treatment shall be commensurate with the institution's visiting procedures and appropriate treatment protocols.

(3) A condemned inmate housed in secure condemned housing pursuant to subdivision (b) shall be returned to San Quentin State Prison at least 60 days prior to his scheduled date of execution.

(4) No more than 15 condemned inmates may be rehoused pursuant to paragraph (1) of subdivision (b).

(d) Prior to any relocation of condemned row from San Quentin State Prison, whether proposed through legislation or any other means, all maximum security Level IV, 180-degree housing unit facilities with an electrified perimeter shall be evaluated by the Department of Corrections for suitability for the secure housing and execution of condemned inmates.

CHAPTER 935

An act to add Article 5.6 (commencing with Section 19527) to Chapter 4 of Division 8 of the Business and Professions Code, relating to horse racing.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Article 5.6 (commencing with Section 19527) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 5.6. Interstate Compact on Horse Racing Occupational Licensing

19527. The Legislature finds and declares all of the following:

(a) The Association of Racing Commissioners International has proposed a compact providing for the licensure of individuals involved in the horse racing industry.

(b) The intent of this compact is to preclude the necessity of individual owners, trainers, backstretch employees, and other race track personnel from having to be separately licensed in each state in which they may conduct business.

(c) This compact would provide for an individual to be licensed by the compact committee created therein, and thus be able to practice his or her profession in all states that are members of the compact.

(d) The purpose of the compact is to:

(1) Establish uniform requirements among the party states for the licensing of participants in live horse racing with parimutuel wagering, and ensure that all participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.

(2) Facilitate the growth of the horse racing industry in each party state and nationwide by simplifying the licensing process for participants in the live racing industry, and reduce the duplicative and costly process of separate licensing by the applicable regulatory agency in each state.

(3) Authorize the California Horse Racing Board to participate in this compact.

(4) Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by the compact, to enter into contracts with governmental agencies and nongovernmental persons and entities to carry out the purposes of this compact.

(5) Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation, other federal law enforcement agencies, and state and local law enforcement agencies.

19528. The California Horse Racing Board is hereby authorized to enter into the interstate compact identified in Section 19527 for the purposes described therein, provided that this state's participation in this compact does not result in the diminution of applicable existing standards established for licensure in California with regard to an applicant's criminal history and does not prevent the enforcement of any state law or regulation affecting any licensee. The California Horse Racing Board's entry into the interstate compact identified in Section 19527 shall not relieve any individual or entity of its duty to obtain any license or pay any fee otherwise required by this chapter. An individual designated by the California Horse Racing Board shall be responsible for representing California in conjunction with the administration of the compact.

CHAPTER 936

An act to amend Sections 19596.2 and 19605.61 of, and to add Section 19596.4 to, the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 19596.2 of the Business and Professions Code is amended to read:

19596.2. (a) Notwithstanding any other provision of law and except as provided in Section 19596.4, a thoroughbred racing association or fair may distribute the audiovisual signal and accept wagers on the results of out-of-state and out-of-country thoroughbred races during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen participating in the race meeting and without regard to the amount of purses, provided that the total number of thoroughbred races on which wagers are accepted statewide in any given year does not exceed the total number of thoroughbred races on which wagers were accepted in 1998. Further, the total number of thoroughbred races imported by associations or fairs on a statewide basis under this section shall not exceed 23 per day on days when live thoroughbred or fair racing is being conducted in the state. The limitation of 23 imported races per day does not apply to any of the following:

(1) Races imported for wagering purposes pursuant to subdivision (d).

(2) Races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Breeders' Cup, or the Haskell Invitational.

(3) Races imported into the northern zone when there is no live thoroughbred or fair racing being conducted in the northern zone.

(4) Races imported into the combined central and southern zones when there is no live thoroughbred or fair racing being conducted in the combined central and southern zones.

(b) Any thoroughbred racing association described in subdivision (a) may execute an agreement with any other association that conducts thoroughbred races in the southern zone to allow the other association

to distribute the signal and accept wagers on out-of-country thoroughbred races.

(c) Any thoroughbred association or fair accepting wagers pursuant to subdivision (a) shall conduct the wagering in accordance with the applicable provisions of Sections 19601, 19616, 19616.1, and 19616.2.

(d) No thoroughbred association or fair shall accept wagers pursuant to this section on out-of-state or out-of-country races commencing after 7:00 p.m., Pacific standard time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting in Orange or Sacramento Counties, and no quarter horse or harness racing association shall accept wagers on out-of-state or out-of-country quarter horse or harness races commencing before 5:30 p.m., Pacific standard time, without the consent of any thoroughbred association or fair that is then conducting a live racing meeting in this state.

SEC. 2. Section 19596.4 is added to the Business and Professions Code, to read:

19596.4. (a) Notwithstanding subdivision (a) of, and subject to the conditions specified in subdivisions (c) and (d) of, Section 19596.2, if the total number of thoroughbred and fair racing days allocated by the board in the northern zone in any calendar year commencing with the calendar year 2001 is less than the total number of thoroughbred and fair racing days allocated by the board in calendar year 2000, a thoroughbred racing association or fair that has been allocated fewer racing days in the northern zone may distribute the audiovisual signal and accept wagers on the results of out-of-state and out-of-country thoroughbred races during the calendar period the association or fair is licensed to conduct a live race meeting, excluding Saturdays and Sundays.

(b) The total number of out-of-state and out-of-country thoroughbred races upon which wagers may be accepted pursuant to this section shall be sufficient to the extent reasonably possible to prevent any loss of revenue to the General Fund and the California racing participants, as determined by the executive director of the board but shall not exceed a maximum of three out-of-state or out-of-country thoroughbred races for every live race that has been eliminated by the board. A thoroughbred racing association in the northern zone shall not import these races on a day when a fair is conducting live racing in the northern zone.

SEC. 3. Section 19605.61 of the Business and Professions Code is amended to read:

19605.61. (a) Notwithstanding any other provision of law, if the live racing or the audiovisual signals of any licensed association or fair in this state are disrupted or interrupted so as to cause the cessation of the live racing or audiovisual signals and the cause is a natural disaster outside the control of the association or fair conducting the racing or

satellite wagering, as determined by the executive director of the board, the executive director may, at the request of the licensed association or fair and the organization representing horsemen at the race meeting, temporarily authorize the conduct of satellite wagering, including the transmission and reception of audiovisual signals, from any zone in the state or from any location outside this state. However, audiovisual signals emanating from within the state shall have preference over audiovisual signals from locations outside this state, and any transmission shall be subject to the conditions specified in subdivisions (a) to (e), inclusive, of Section 19605.3.

(b) As used in this section, "natural disaster" means fire, flood, storm, epidemic, riot, or earthquake.

CHAPTER 937

An act to amend Sections 12020 and 12280 of the Penal Code, relating to weapons.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read: 12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for

which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(30) (A) The manufacture of a large-capacity magazine for any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(B) The manufacture of a large-capacity magazine for use by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(C) The manufacture of a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable federal regulations.

(31) The loan of a large-capacity magazine for use solely as a prop for a motion picture, television, or video production.

(32) The purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305, for any of the following purposes:

(A) For use solely as a prop for a motion picture, television, or video production.

(B) For export pursuant to federal regulations.

(C) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

(c) (1) As used in this section, a “short-barreled shotgun” means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles,

connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, that measures approximately one inch in length, with tail fins that take up approximately five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2¹/₂ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an “undetectable firearm” means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms “firearm,” “major component,” and “Security Exemplar” have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

(23) As used in this section, a “multiburst trigger activator” means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, “large-capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

(A) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(B) A .22 caliber tube ammunition feeding device.

(C) A tubular magazine that is contained in a lever-action firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm specified by Section 12276 or 12276.5 pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) A first-time violation of subdivision (b) shall be an infraction punishable by a fine of up to five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(2) The person is not found in possession of a firearm specified as an assault weapon pursuant to Section 12276 or Section 12276.5.

(3) The person has not previously been convicted of violating this section.

(4) The person was found to be in possession of the assault weapons within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(5) The person has since registered the firearms and any other lawfully obtained firearms defined by Section 12276.1, pursuant to Section 12285, except as provided for by this section, or relinquished them pursuant to Section 12288.

(d) Firearms seized pursuant to subdivision (c) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

(g) (1) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(2) Subdivisions (a) and (b) shall not prohibit the delivery, transfer, or sale of an assault weapon to, or the possession of an assault weapon by, a sworn peace officer member of an agency specified in subdivision (f), provided that the peace officer is authorized by his or her employer to possess or receive the assault weapon. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. For this exemption to apply, in the case of a peace officer

who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 on or before April 1, 2002; in the case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 not later than 90 days after possession or receipt. The peace officer must include with the registration, a copy of the authorization required pursuant to this paragraph.

(3) Nothing in this section shall be construed to limit or prohibit the delivery, transfer, or sale of an assault weapon to, or the possession of an assault weapon by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon.

(h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.

(i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter, or who lawfully possesses an assault weapon pursuant to subdivision (i), who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon, or the person who lawfully possesses an assault weapon pursuant to subdivision (i).

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor, or the lawful possessor, which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 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 938

An act to amend Section 63036 of the Government Code, and to amend Section 1720 of the Labor Code, relating to the California infrastructure and economic development bank.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 63036 of the Government Code is amended to read:

63036. It is the intent of the Legislature that the activities of the bank be fully coordinated with any future legislative plan involving growth management strategies designed to protect California's land resource, and ensure its preservation and use it in ways which are economically and socially desirable. Further, all public works financed pursuant to this division, including those projects financed through the use of industrial development bonds under Title 10 (commencing with Section 91500), shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 2. Section 1720 of the Labor Code is amended to read:

1720. (a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

(2) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. "Public work" shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(b) For purposes of this section, "paid for in whole or in part out of public funds" means the payment of money or the equivalent of money by a state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer, performance of construction work by the state or political subdivision in execution of the project, transfer of an asset of value for less than fair market price; fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, which are paid, reduced, charged at less than fair market value, waived or forgiven; money to be repaid on a contingent basis; or credits applied against repayment obligations.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter if the projects are not built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.

(2) (A) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(B) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development

project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(3) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from a Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code does not constitute a project that is paid for in whole or in part out of public funds.

(4) "Paid for in whole or in part out of public funds" shall not include tax credits provided pursuant to Section 17053.49 or 23649 of the Revenue and Taxation Code.

(d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by Section 142 (d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8369.80) of the Government Code on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 of Division 31 (commencing with Section 50199.4) of the Health and Safety Code, or Sections 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

(e) If a statute, other than this section, or an ordinance or regulation, other than an ordinance or regulation adopted pursuant to this section, applies this chapter to a project, the exclusions set forth in subdivision (d) shall not apply to that project.

(f) For purposes of this section, references to the Internal Revenue Code shall mean the Internal Revenue Code of 1986, as amended, and

shall include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

CHAPTER 939

An act to amend Sections 65858 and 65913.1 of the Government Code, relating to housing.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 65858 of the Government Code is amended to read:

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with

a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

(g) For purposes of this section, “development of multifamily housing projects” does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.

(h) For purposes of this section, “projects with a significant component of multifamily housing” means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

SEC. 2. Section 65913.1 of the Government Code is amended to read:

65913.1. (a) In exercising its authority to zone for land uses and in revising its housing element pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3, a city, county, or city and county shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs for all income categories as identified in the housing element of the general plan. For the purposes of this section:

(1) “Appropriate standards” means densities and requirements with respect to minimum floor areas, building setbacks, rear and side yards, parking, the percentage of a lot that may be occupied by a structure, amenities, and other requirements imposed on residential lots pursuant to the zoning authority which contribute significantly to the economic feasibility of producing housing at the lowest possible cost given economic and environmental factors, the public health and safety, and the need to facilitate the development of housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and to persons and families of lower income, as defined in Section 50079.5 of the Health and Safety Code. However, nothing in this section shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to construct this housing.

(2) “Vacant land” does not include agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5.

(b) Nothing in this section shall be construed to require a city, county, or city and county in which less than 5 percent of the total land area is undeveloped to zone a site within an urbanized area of that city, county, or city and county for residential uses at densities that exceed those on adjoining residential parcels by 100 percent. For the purposes of this section, “urbanized area” means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203, and as periodically updated.

CHAPTER 940

An act to amend Sections 12001, 12071, 12072, 12076, 12077, 12078, and 12084 of, to amend and repeal Section 12081 of, to add Sections 12076.5 and 12810 to, and to repeal and add Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of, the Penal Code, relating to firearms.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:
12001. (a) (1) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term “handgun” means any “pistol,” “revolver,” or “firearm capable of being concealed upon the person.”

(b) As used in this title, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term “firearm” does not include an unloaded firearm that is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a “handgun,” “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, “application to purchase” means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria:

- (1) He or she is not a person licensed pursuant to Section 12071.
- (2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.
- (3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
- (4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.
- (5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.
- (6) He or she moves into this state on or after January 1, 1998, as a resident of this state.
- (7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.
- (8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.
- (9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.
- (10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.
- (11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the Armed Forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

(p) As used in this code, "basic firearms safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

(q) As used in this code, "handgun safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or after January 1, 2003.

SEC. 2. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a

certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other

firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial

census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with

Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of

proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for

providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.1. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR

CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

- (XI) Apply the safety, if applicable.
- (XII) Apply the firearm safety device, if applicable.
 - (ii) If the handgun is a double-action revolver:
 - (I) Open the cylinder.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Close the cylinder.
 - (VI) Open the cylinder and eject the round.
 - (VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VIII) Apply the firearm safety device, if applicable.
 - (iii) If the handgun is a single-action revolver:
 - (I) Open the loading gate.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Open the loading gate and unload the revolver.
 - (VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VII) Apply the firearm safety device, if applicable.
 - (E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.
 - (F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.
 - (G) The recipient shall perform the safe handling demonstration for a department certified instructor.
 - (H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(5) For purposes of this section, "residential dwelling" means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(6) For purposes of this section, "gunsmith" means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the

number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.2. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of

administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial

census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with

Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of

proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for

providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A

LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use

of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(5) For purposes of this section, "residential dwelling" means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(6) For purposes of this section, “gunsmith” means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual’s current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department’s fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 3. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3) (A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(B) Subparagraph (A) shall not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any person who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(7) The dealer shall comply with the provisions of paragraph (19) of subdivision (b) of Section 12071.

(8) No person shall sell or otherwise transfer his or her ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(A) The name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number assigned to that firearm.

(B) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 12092.

(9) (A) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(B) Subparagraph (A) shall not apply to any of the following:

(i) Any law enforcement agency.

(ii) Any agency duly authorized to perform law enforcement duties.

(iii) Any state or local correctional facility.

(iv) Any private security company licensed to do business in California.

(v) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of his or her employment as a peace officer.

(vi) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(vii) Any person who may, pursuant to Section 12078, claim an exemption from the waiting period set forth in subdivision (c) of this section.

(viii) Any transaction conducted through a licensed firearms dealer pursuant to Section 12082.

(ix) Any transaction conducted through a law enforcement agency pursuant to Section 12084.

(x) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code

and the regulations issued pursuant thereto and who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(xi) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(xii) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.

(xiii) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through either of the following:

(1) A licensed firearms dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one's identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

(f) (1) No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

(A) The person presents proof of licensure pursuant to Section 12071 to that person.

(B) The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

(2) (A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).

(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

(iv) Sell or transfer the firearm to a sheriff or police department.

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

(C) The provisions of this paragraph are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

(D) (i) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this paragraph to ensure a high degree of publicity of the provisions of this paragraph.

(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

(II) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.

(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4) (A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g) (1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars (\$50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 4. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of

subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is

received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1) (A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by

paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, and the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the

General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072 Sections and Section 12289.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 5. Section 12076.5 is added to the Penal Code, to read:

12076.5. (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the Department of Justice without regard to fiscal years for the purpose of implementing and enforcing the provisions of Article 8 (commencing with Section 12800), as added by the Statutes of 2001, enforcing the

provisions of this title, and for the establishment, maintenance and upgrading of equipment and services necessary for firearms dealers to comply with Section 12077.

(b) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

SEC. 6. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic or telephonic transfer pursuant to Section 12074.

(b) (1) For handguns, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and

Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, any information required to determine whether or not paragraph (6) of subdivision (c) of Section 12072 applies, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) (1) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing

a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) Effective January 1, 2003, the purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means except as authorized by the department. This requirement shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic stripe reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(g) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

SEC. 7. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071, 12072, and 12084 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer or local law enforcement agency acting pursuant to Section 12084 at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer or local law enforcement agency shall keep the certification with the record of sale, or LEFT, as the case may be. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) or (c) of Section 12077 or Section 12084. If electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a pistol, revolver, or other firearm capable of being concealed upon the person is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall arrange with the

sheriff of the county in which the agency is located to input this information via this system.

(3) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.

(4) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(5) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this paragraph shall be

disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection or the purchase or receipt of that firearm by such public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm prior to delivery is deactivated or rendered inoperable.

(C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

(D) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(E) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(F) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, the name of the government entity delivering the firearm, and the make, model, serial number, and other identifying characteristics of the firearm and the name of the person authorized by the entity to take possession of the firearm shall be reported to the department in a manner prescribed by the department.

(G) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm is deactivated or rendered inoperable prior to delivery.

(C) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.

(D) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(E) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that public or private historical society, museum or institutional collection within 30 days of taking possession of that handgun, shall forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, that includes information identifying the person representing that public or private historical society, museum, or institutional collection, how title was obtained and from whom, and a description of the firearm in question, along with a copy of the written statement referred to in subparagraph (D). The report forms that are to be completed pursuant to this paragraph shall be provided by the Department of Justice.

(F) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(b) (1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of a handgun to a person licensed pursuant to Section 12071, where the licensee is receiving the handgun in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(c) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) If taking possession of the firearm prior to January 1, 2003, the person taking title to the firearm shall first obtain a basic firearms safety certificate. If taking possession on or after January 1, 2003, the person taking title to the firearm shall first obtain a handgun safety certificate.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited from owning or possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by Section 8100 or 8103 of the Welfare and Institutions Code.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18 years of age or older.

(e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with

Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(B) If the person taking title or possession is receiving the firearm pursuant to subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of the following:

(i) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(ii) Prior to taking title or possession of the firearm, if title or possession is taken prior to January 1, 2003, the person shall either obtain a basic firearms safety certificate or be exempt from obtaining a basic firearms safety certificate pursuant to Section 12081. Prior to taking title or possession of the firearm, if title or possession is taken on or after January 1, 2003, the person shall obtain a handgun safety certificate.

(C) Where the person receiving title or possession of the pistol, revolver, or other firearm capable of being concealed upon the person is a person described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from

whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the pistol, revolver, or other firearm capable of being concealed upon the person is a person described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that pistol, revolver, or other firearm capable of being concealed upon the person to the person referred to in this subparagraph if delivery takes place prior to January 1, 2003, unless prior to the delivery of the same the person presents proof to the agency that he or she is the holder of a basic firearms safety certificate or is exempt from obtaining a basic firearms safety certificate pursuant to Section 12081, or, commencing January 1, 2003, is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, and until January 1, 2003, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply. Commencing January 1, 2003, the exemption shall not apply, and the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a pistol, revolver, or other firearm capable of being concealed upon the person or who moves out of this state with his or her pistol, revolver, or other firearm capable of being concealed upon the person may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a pistol, revolver, or other

firearm capable of being concealed upon the person by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a), subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall not apply to the sale of a handgun if both of the following requirements are satisfied:

(A) The sale is to a person who is at least 18 years of age.

(B) The firearm is an antique firearm as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges, to a person 18 years of age or older, for use solely as a prop for a motion picture, television, or video production or an entertainment or theatrical event.

(t) (1) The waiting period described in Sections 12071, 12072, and 12084 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law enforcement agency to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, which is a curio or

relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) "A person taking title or possession of firearms by operation of law" includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

SEC. 8. Section 12081 of the Penal Code is amended to read:

12081. A basic firearms safety certificate shall not be required for any of the following transactions:

(a) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a dealer.

(b) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to an active member of the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United States, who is properly identified. For purposes of this subdivision, proper identification includes the Armed Forces Identification Card, or other written documents certifying that the person is an active member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(d) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to any person honorably discharged from the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States who is properly identified. For purposes of this subdivision, proper identification includes a Retired Armed Forces Identification Card, or other written document certifying the person as being honorably discharged.

(e) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to any of the following persons who are properly identified:

(1) Any California or federal peace officer who is authorized to carry a firearm while on duty.

(2) Any honorably retired peace officer, as defined in Section 830.1, 830.2, or subdivision (c) of Section 830.5.

(3) Any honorably retired federal officers or agents who were authorized to, and did, carry firearms in the course and scope of their duties and are authorized to carry firearms pursuant to subdivision (i) of Section 12027.

(4) Any persons who have permits to carry pistols, revolvers, or other firearms capable of being concealed upon the person issued pursuant to Article 3 (commencing with Section 12050) of Chapter 1.

(5) Any persons who have a certificate of competency or a certificate of completion in hunter safety as provided in Article 2.5 (commencing with Section 3049) of Chapter 1 of Part 1 of Division 4 of the Fish and Game Code, which bears a hunter safety instruction validation stamp affixed thereto.

(6) Any person who holds a valid hunting license issued by the State of California.

(7) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(8) Any person who has been issued a certificate pursuant to Section 12033.

(9) Any basic firearms safety instructor certified by the department pursuant to Section 12805.

(10) Persons who are properly identified as authorized participants in shooting matches approved by the Director of Civilian Marksmanship pursuant to the applicable provisions of Title 10 of the United States Code.

(11) Persons who have successfully completed the course of training specified in Section 832.

(12) Any person who receives an inoperable pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Section 50081 of the Government Code.

(f) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person which is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her pursuant to Section 12071.

(g) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 9. Section 12084 of the Penal Code is amended to read:

12084. (a) As used in this section, the following definitions apply:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census, that elects to process purchases, sales, loans, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm or the person loaning the firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(4) "Purchase" means the purchase, loan, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale, transfer, or loan of a firearm through a licensed dealer pursuant to Section 12082, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form

provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that, instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT. For purposes of this paragraph, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person between the same two persons.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and, if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) (A) The agency may charge a fee, not to exceed actual cost, sufficient to reimburse the agency for processing the transfer.

(B) The department may charge a fee, not to exceed actual cost, sufficient to reimburse the department for providing the information. The department shall charge the same fee that it would charge a dealer pursuant to Section 12082.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of any correction to the LEFT, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later. On and after April 1, 1997, within 10 days of the application to purchase, or after notice by the department pursuant

to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1, or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a handgun, commencing April 1, 1994, and until January 1, 2003, unless the purchaser presents to the seller a basic firearms safety certificate. Commencing January 1, 2003, in the case of a handgun, unless the purchaser presents to the seller a handgun safety certificate.

(H) Unless the purchaser is at least 18 years of age.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

(h) All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

SEC. 10. Article 8 (commencing with Section 12800) is added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

Article 8. Handgun Safety Certificate

12800. It is the intent of the Legislature in enacting this article to require that persons who obtain handguns have a basic familiarity with

those firearms, including, but not limited to, the safe handling and storage of those firearms. It is not the intent of the legislature to require a handgun safety certificate for the mere possession of a firearm.

12801. (a) As used in this article, the following definitions shall apply:

(1) "Department" means the Department of Justice.

(2) "DOJ Certified Instructor" or "certified instructor" means a person designated as a handgun safety instructor by the Department of Justice pursuant to subdivision (d) of Section 12804.

(b) No person shall do either of the following:

(1) Purchase or receive any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, without a valid handgun safety certificate.

(2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, to any person who does not have a valid handgun safety certificate.

(c) Any person who violates subdivision (b) is guilty of a misdemeanor.

(d) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

12802. (a) No person may commit an act of collusion as specified in Section 12072.

(b) Any person who alters, counterfeits, or falsifies a handgun safety certificate, or who uses or attempts to use any altered, counterfeited, or falsified handgun safety certificate to purchase a handgun is guilty of a misdemeanor.

(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of this code shall not be punished under more than one provision.

12803. (a) No certified instructor may issue a handgun safety certificate to any person who has not complied with this article. Proof of compliance shall be forwarded to the department by certified instructors as frequently as the department may determine.

(b) No certified instructor may issue a handgun safety certificate to any person who is under 18 years of age.

(c) A violation of this section shall be grounds for the department to revoke the instructor's certification to issue handgun safety certificates.

12804. (a) The department shall develop an instruction manual in English and in Spanish by October 1, 2002. The department shall make

the instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall make it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 12080.

(b) The department shall develop audiovisual materials in English and in Spanish by March 1, 2003, to be issued to instructors certified by the department.

(c) (1) The department shall develop a written objective test, in English and in Spanish, and prescribe its content, form, and manner, to be administered by an instructor certified by the department. If the person taking the test is unable to read, the examination shall be administered orally. The test shall cover, but not be limited to, all of the following:

(A) The laws applicable to carrying and handling firearms, particularly handguns.

(B) The responsibilities of ownership of firearms, particularly handguns.

(C) Current law as it relates to the private sale and transfer of firearms.

(D) Current law as it relates to the permissible use of lethal force.

(E) What constitutes safe firearm storage.

(F) Issues associated with bringing a handgun into the home.

(G) Prevention strategies to address issues associated with bringing firearms into the home.

(2) If the person taking the test is unable to read English or Spanish, the test may be applied orally by a translator.

(d) The department shall prescribe a minimum level of skill, knowledge and competency to be required of all handgun safety certificate instructors.

(e) If a dealer licensed pursuant to Section 12071 or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also designate a separate room or partitioned area for a person to take the objective test, and maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

(f) The department shall solicit input from any reputable association or organization, including any law enforcement association that has as one of its objectives the promotion of firearms safety, in the development of the handgun safety certificate instructional materials.

(g) The department shall develop handgun safety certificates to be issued by instructors certified by the department, to those persons who have complied with this article.

(h) The department shall be immune from any liability arising from implementing this section.

(i) The department shall update test materials related to this article every five years.

(j) Department Certified Instructor applicants shall have a certification to provide training from one of the following organizations as specified, or any entity found by the department to give comparable instruction in firearms safety, or the applicant shall have similar or equivalent training to that provided by the following, as determined by the department:

(1) Department of Consumer Affairs, State of California-Firearm Training Instructor.

(2) Director of Civilian Marksmanship, Instructor or Rangemaster.

(3) Federal Government, Certified Rangemaster or Firearm Instructor.

(4) Federal Law Enforcement Training Center, Firearm Instructor Training Program or Rangemaster.

(5) United States Military, Military Occupational Specialty (MOS) as marksmanship or firearms instructor. Assignment as Range Officer or Safety Officer are not sufficient.

(6) National Rifle Association-Certified Instructor, Law Enforcement Instructor, Rangemaster, or Training Counselor.

(7) Commission on Peace Officer Standards and Training (POST), State of California-Firearm Instructor or Rangemaster.

(8) Authorization from a State of California accredited school to teach a firearm training course.

12805. (a) An applicant for a handgun safety certificate shall successfully pass the objective test referred to in paragraph (1) of subdivision (c) of Section 12804, with a passing grade of at least 75 percent. Any person receiving a passing grade on the objective test shall immediately be issued a handgun safety certificate by the instructor.

(b) An applicant who fails to pass the objective test upon the first attempt shall be offered additional instructional materials by the instructor such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission by the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours in order to retake the test.

(c) The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to the department pursuant to subdivision (e).

(d) An applicant to renew a handgun safety certificate shall be required to pass the objective test. The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant to subdivision (e).

(e) The department may charge the certified instructor up to fifteen dollars (\$15) for each handgun safety certificate issued by that instructor to cover the department's cost in carrying out and enforcing this article, and enforcing this title, as determined annually by the department.

(f) All money received by the department pursuant to this article shall be deposited into the Firearms Safety and Enforcement Special Fund created pursuant to Section 12076.5.

(g) The department shall conduct enforcement activities, including, but not limited to, law enforcement activities to ensure compliance with Title 2 (commencing with Section 12000) of Part 4.

12806. (a) A handgun safety certificate shall include, but not be limited to, the following information:

- (1) A unique handgun safety certificate identification number.
- (2) The holder's full name.
- (3) The holder's date of birth.
- (4) The holder's driver's license or identification number.
- (5) The holder's signature.
- (6) The signature of the issuing instructor.
- (7) The date of issuance.

(b) The handgun safety certificate shall expire five years after the date that it was issued by the certified instructor.

12807. (a) The following persons, properly identified, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Any active or honorably retired federal officer or law enforcement agent.

(3) Any reserve peace officer, as defined in Section 832.6.

(4) Any person who has successfully completed the course of training specified in Section 832.

(5) A firearms dealer licensed pursuant to Section 12071, who is acting in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(6) A federally licensed collector who is acquiring or being loaned a handgun that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued to him or her by the department pursuant to Section 12071.

(7) A person to whom a handgun is being returned, where the person receiving the firearm is the owner of the firearm.

(8) A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Section 50081 of the Government Code.

(9) Any individual who has a valid concealed weapons permit issued pursuant to Section 12050.

(10) An active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified. For purposes of this section, proper identification includes the Armed Forces Identification Card, or other written documentation certifying that the individual is an active or honorably retired member.

(11) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(12) Persons who are the holders of a special weapons permit issued by the department pursuant to Section 12095, 12230, 12250, or 12305.

(b) The following persons who take title or possession of a handgun by operation of law in a representative capacity, until or unless they transfer title ownership of the handgun to themselves in a personal capacity, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) The executor or administrator of an estate.

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(3) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(4) A receiver performing his or her functions as a receiver.

(5) A trustee in bankruptcy performing his or her duties.

(6) An assignee for the benefit of creditors performing his or her functions as an assignee.

12808. (a) In the case of loss or destruction of a handgun safety certificate, the issuing instructor shall issue a duplicate certificate upon request and proof of identification to the certificate holder.

(b) The department may authorize the issuing instructor to charge a fee not to exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund, created pursuant to Section 12076.5.

12809. Except for the provisions of Section 12804, this article shall become operative on January 1, 2003.

SEC. 11. Section 12810 is added to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of the Penal Code, as added by Chapter 950 of the Statutes of 1991, to read:

12810. (a) This article is repealed on January 1, 2003, unless a later enacted statute that becomes operative on or before that date deletes or extends that date.

(b) Effective January 1, 2003, the Controller shall transfer all remaining funds in the Firearms Safety Training Fund Special Account to the Firearms Safety and Enforcement Special Fund created pursuant to Section 12076.5.

SEC. 12. (a) Section 2.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 22. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 12071 of the Penal Code, (3) SB 950 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 22, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and SB 950. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 12071 of the Penal Code, (3) AB 22 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 950, in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 22, and SB 950. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2002, (2) all three bills amend Section 12071 of the Penal Code, and (3) this bill is enacted after AB 22, and SB 950, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 13. This act shall only become operative if SB 52 is enacted and becomes effective on or before January 1, 2002. However, in order to avoid duplicate provisions, Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of the Penal Code, as proposed by SB 52 shall not become operative if this bill adds an article of the same number and this bill is chaptered last.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or

changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 941

An act to amend Section 19805 of the Business and Professions Code, to amend Sections 330.11 and 337j of the Penal Code, and to amend Section 1 of Chapter 1023 of the Statutes of 2000, relating to gambling clubs.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 19805 of the Business and Professions Code is amended to read:

19805. As used in this chapter, the following definitions shall apply:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) "Applicant" means any person who has applied for, or is about to apply for, a state gambling license, a key employee license, a registration, a finding of suitability, a work permit, a manufacturer's or distributor's license, or an approval of any act or transaction for which the approval or authorization of the commission or division is required or permitted under this chapter.

(c) "Banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

(d) "Board" means the California Gambling Control Board.

(e) "Commission" means the California Gambling Control Commission.

(f) "Controlled gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(g) "Controlled game" means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(h) "Director," when used in connection with a corporation, means any director of a corporation or any person performing similar functions with respect to any organization. In any other case, "director" means the Director of the Division of Gambling Control.

(i) "Division" means the Division of Gambling Control in the Department of Justice.

(j) "Finding of suitability" means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19848, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in subdivision (a) of Section 19850.

(k) "Game" and "gambling game" means any controlled game.

(l) "Gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(m) "Gambling enterprise employee" means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floormen, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(n) "Gambling establishment," "establishment," or "licensed premises" means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(o) "Gambling license" or "state gambling license" means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(p) "Gambling operation" means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(q) "Gross revenue" means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(r) "House" means the gambling establishment, and any owner, shareholder, partner, key employee, or landlord thereof.

(s) "Independent agent," except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(t) "Institutional investor" means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the board may determine for reasons consistent with the policies of this chapter.

(u) "Key employee" means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the division for reasons consistent with the policies of this chapter.

(v) "Key employee license" means a state license authorizing the holder to be associated with a gambling enterprise as a key employee.

(w) "Licensed gambling establishment" means the gambling premises encompassed by a state gambling license.

(x) "Limited partnership" means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(y) "Limited partnership interest" means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(z) "Owner licensee" means an owner of a gambling enterprise who holds a state gambling license.

(aa) "Person," unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(ab) “Player” means a patron of a gambling establishment who participates in a controlled game.

(ac) “Player-dealer” and “controlled game featuring a player-dealer position” refer to a position in a controlled game, as defined by the approved rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at the same table, provided that this position is rotated amongst the other seated players in the game.

(ad) “Publicly traded racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(ae) “Qualified racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(af) “Work permit” means any card, certificate, or permit issued by the division or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 2. Section 330.11 of the Penal Code is amended to read:

330.11. “Banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

SEC. 3. Section 337j of the Penal Code is amended to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. No fee may be calculated as a fraction or percentage of wagers made or winnings earned. Fees charged for all wagers shall be determined prior to the start of play of any hand or round. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than three collection rates may be established per table.

SEC. 4. Section 1 of Chapter 1023 of the Statutes of 2000, is amended to read:

Section 1. The Legislature finds and declares as follows:

(a) In 1983 and 1984 California card clubs played games with cards involving a player-dealer position in which players were afforded the temporary opportunity to wager against multiple players at the table where the player-dealer position continuously and systematically rotated among the players, prior to the amendment of Section 19 of Article IV of the California Constitution by the California State Lottery Act in 1984. This method of play was not found to be inconsistent with current law by the Courts of Appeal in *Sullivan v. Fox* (1987) 189 Cal.App.3d 673, *Walker v. Meehan* (1987) 194 Cal.App.3d 1290, *City of Bell Gardens v. County of Los Angeles* (1991) 231 Cal.App.3d 1563, and *Huntington Park Club Corp. v. County of Los Angeles* (1988) 206 Cal.App.3d 241.

(b) The amendment to Section 19 of Article IV of the Constitution declared:

“The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey.”

Casinos operating in 1983 and 1984 in the States of Nevada and New Jersey did not include card games featuring a player-dealer position which continuously and systematically rotates among the players. In Nevada and New Jersey, comparable games are banked only by the house, which is a participant in the game, with an interest in its outcome, and which covers all bets in the game, paying all winners and collecting from all losers.

(c) In *Hotel Employees & Restaurant Employees v. Davis* (1999) 21 Cal. 4th 585, the California Supreme Court recently stated at page 605 that:

“...(t)he type” of casino “operating in Nevada and New Jersey” presumably refers to a gambling facility that did not legally operate in California; something other, that is, than “the type” of casino “operating” in California.”

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 942

An act to amend Sections 12001, 12071, 12072, 12076, 12077, 12078, and 12084 of, to amend and repeal Section 12081 of, to add Sections 12076.5 and 12810 to, and to repeal and add Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of, the Penal Code, relating to firearms.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:
12001. (a) (1) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term “handgun” means any “pistol,” “revolver,” or “firearm capable of being concealed upon the person.”

(b) As used in this title, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term “firearm” does not include an unloaded firearm that is defined

as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a “handgun,” “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, “application to purchase” means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant’s fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a “personal handgun importer” means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the Armed Forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

(p) As used in this code, "basic firearms safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

(q) As used in this code, "handgun safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or after January 1, 2003.

SEC. 2. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT

YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

- (I) Remove the magazine.
- (II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.
- (III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.
- (IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
- (V) Load one bright orange dummy round into the magazine.
- (VI) Insert the magazine into the magazine well of the firearm.
- (VII) Manipulate the slide release or pull back and release the slide.
- (VIII) Remove the magazine.
- (IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.
- (X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.
- (XI) Apply the safety, if applicable.
- (XII) Apply the firearm safety device, if applicable.
 - (ii) If the handgun is a double-action revolver:
 - (I) Open the cylinder.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Close the cylinder.
 - (VI) Open the cylinder and eject the round.
 - (VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VIII) Apply the firearm safety device, if applicable.
 - (iii) If the handgun is a single-action revolver:
 - (I) Open the loading gate.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to

Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the

cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.1. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
 - (ii) The places specified in subparagraph (B) or (C).
 - (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.
- (2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.
- (3) No firearm shall be delivered:
- (A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.
 - (B) Unless unloaded and securely wrapped or unloaded and in a locked container.
 - (C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.
 - (D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.
- (4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.
- (5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.
- (6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.
- (7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:
- (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person

being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back,

pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(5) For purposes of this section, "residential dwelling" means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(6) For purposes of this section, "gunsmith" means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the

number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.2. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of

administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial

census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with

Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of

proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for

providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 2.3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A

LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department Certified Instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use

of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a “secure facility” means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, “licensed premises,” “licensed place of business,” “licensee’s place of business,” or “licensee’s business premises” means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A “firearms transaction record” is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(5) For purposes of this section, “residential dwelling” means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(6) For purposes of this section, “gunsmith” means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual’s current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department’s fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 3. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3) (A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(B) Subparagraph (A) shall not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any person who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(7) The dealer shall comply with the provisions of paragraph (19) of subdivision (b) of Section 12071.

(8) No person shall sell or otherwise transfer his or her ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(A) The name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number assigned to that firearm.

(B) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 12092.

(9) (A) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(B) Subparagraph (A) shall not apply to any of the following:

(i) Any law enforcement agency.

(ii) Any agency duly authorized to perform law enforcement duties.

(iii) Any state or local correctional facility.

(iv) Any private security company licensed to do business in California.

(v) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of his or her employment as a peace officer.

(vi) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(vii) Any person who may, pursuant to Section 12078, claim an exemption from the waiting period set forth in subdivision (c) of this section.

(viii) Any transaction conducted through a licensed firearms dealer pursuant to Section 12082.

(ix) Any transaction conducted through a law enforcement agency pursuant to Section 12084.

(x) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code

and the regulations issued pursuant thereto and who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(xi) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(xii) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.

(xiii) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through either of the following:

(1) A licensed firearms dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one's identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

(f) (1) No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

(A) The person presents proof of licensure pursuant to Section 12071 to that person.

(B) The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

(2) (A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).

(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

(iv) Sell or transfer the firearm to a sheriff or police department.

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

(C) The provisions of this paragraph are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

(D) (i) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this paragraph to ensure a high degree of publicity of the provisions of this paragraph.

(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

(II) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.

(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4) (A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g) (1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars (\$50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 4. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of

subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is

received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1) (A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by

paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, and the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the

General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072 and Section 12289.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 5. Section 12076.5 is added to the Penal Code, to read:

12076.5. (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the Department of Justice without regard to fiscal years for the purpose of implementing and enforcing the provisions of Article 8 (commencing with Section 12800), as added by the Statutes of 2001, enforcing the provisions of this title, and for the establishment, maintenance and

upgrading of equipment and services necessary for firearms dealers to comply with Section 12077.

(b) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

SEC. 6. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic or telephonic transfer pursuant to Section 12074.

(b) (1) For handguns, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a

witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, any information required to determine whether or not paragraph (6) of subdivision (c) of Section 12072 applies, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) (1) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect

information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) Effective January 1, 2003, the purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means except as authorized by the department. This requirement shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic stripe reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(g) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

SEC. 7. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071, 12072, and 12084 shall not apply to deliveries, transfers, or sales of

firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer or local law enforcement agency acting pursuant to Section 12084 at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer or local law enforcement agency shall keep the certification with the record of sale, or LEFT, as the case may be. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) or (c) of Section 12077 or Section 12084. If electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a pistol, revolver, or other firearm capable of being concealed upon the person is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(3) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.

(4) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(5) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection or the purchase or receipt of that firearm by such public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm prior to delivery is deactivated or rendered inoperable.

(C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

(D) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(E) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(F) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, the name of the government entity delivering the firearm, and the make, model, serial number, and other identifying characteristics of the firearm and the name of the person authorized by the entity to take possession of the firearm shall be reported to the department in a manner prescribed by the department.

(G) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm is deactivated or rendered inoperable prior to delivery.

(C) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.

(D) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating

condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable Section 12801.

(E) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that public or private historical society, museum or institutional collection within 30 days of taking possession of that handgun, shall forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, that includes information identifying the person representing that public or private historical society, museum, or institutional collection, how title was obtained and from whom, and a description of the firearm in question, along with a copy of the written statement referred to in subparagraph (D). The report forms that are to be completed pursuant to this paragraph shall be provided by the Department of Justice.

(F) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(b) (1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of a handgun to a person licensed pursuant to Section 12071, where the licensee is receiving the handgun in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(c) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm,

how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) If taking possession of the firearm prior to January 1, 2003, the person taking title to the firearm shall first obtain a basic firearms safety certificate. If taking possession on or after January 1, 2003, the person taking title to the firearm shall first obtain a handgun safety certificate.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited from owning or possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by Section 8100 or 8103 of the Welfare and Institutions Code.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18 years of age or older.

(e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or

other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this

code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(B) If the person taking title or possession is receiving the firearm pursuant to subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of the following:

(i) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(ii) Prior to taking title or possession of the firearm, if title or possession is taken prior to January 1, 2003, the person shall either obtain a basic firearms safety certificate or be exempt from obtaining a basic firearms safety certificate pursuant to Section 12081. Prior to taking title or possession of the firearm, if title or possession is taken on or after January 1, 2003, the person shall obtain a handgun safety certificate.

(C) Where the person receiving title or possession of the pistol, revolver, or other firearm capable of being concealed upon the person is a person described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state

agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the pistol, revolver, or other firearm capable of being concealed upon the person is a person described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that pistol, revolver, or other firearm capable of being concealed upon the person to the person referred to in this subparagraph if delivery takes place prior to January 1, 2003, unless prior to the delivery of the same the person presents proof to the agency that he or she is the holder of a basic firearms safety certificate or is exempt from obtaining a basic firearms safety certificate pursuant to Section 12081, or, commencing January 1, 2003, is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, and until January 1, 2003, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply. Commencing January 1, 2003, the exemption shall not apply, and the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a pistol, revolver, or other firearm capable of being concealed upon the person or who moves out of this state with his or her pistol, revolver, or other firearm capable of being concealed upon the person may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion

picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a), subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall not apply to the sale of a handgun if both of the following requirements are satisfied:

(A) The sale is to a person who is at least 18 years of age.

(B) The firearm is an antique firearm as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed

hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges, to a person 18 years of age or older, for use solely as a prop for a motion picture, television, or video production or an entertainment or theatrical event.

(t) (1) The waiting period described in Sections 12071, 12072, and 12084 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law enforcement agency to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) "A person taking title or possession of firearms by operation of law" includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

SEC. 8. Section 12081 of the Penal Code is amended to read:

12081. A basic firearms safety certificate shall not be required for any of the following transactions:

(a) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a dealer.

(b) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to an active member of the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United States, who is

properly identified. For purposes of this subdivision, proper identification includes the Armed Forces Identification Card, or other written documents certifying that the person is an active member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(d) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to any person honorably discharged from the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States who is properly identified. For purposes of this subdivision, proper identification includes a Retired Armed Forces Identification Card, or other written document certifying the person as being honorably discharged.

(e) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to any of the following persons who are properly identified:

(1) Any California or federal peace officer who is authorized to carry a firearm while on duty.

(2) Any honorably retired peace officer, as defined in Section 830.1, 830.2, or subdivision (c) of Section 830.5.

(3) Any honorably retired federal officers or agents who were authorized to, and did, carry firearms in the course and scope of their duties and are authorized to carry firearms pursuant to subdivision (i) of Section 12027.

(4) Any persons who have permits to carry pistols, revolvers, or other firearms capable of being concealed upon the person issued pursuant to Article 3 (commencing with Section 12050) of Chapter 1.

(5) Any persons who have a certificate of competency or a certificate of completion in hunter safety as provided in Article 2.5 (commencing with Section 3049) of Chapter 1 of Part 1 of Division 4 of the Fish and Game Code, which bears a hunter safety instruction validation stamp affixed thereto.

(6) Any person who holds a valid hunting license issued by the State of California.

(7) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(8) Any person who has been issued a certificate pursuant to Section 12033.

(9) Any basic firearms safety instructor certified by the department pursuant to Section 12805.

(10) Persons who are properly identified as authorized participants in shooting matches approved by the Director of Civilian Marksmanship pursuant to the applicable provisions of Title 10 of the United States Code.

(11) Persons who have successfully completed the course of training specified in Section 832.

(12) Any person who receives an inoperable pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Section 50081 of the Government Code.

(f) The delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person which is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her pursuant to Section 12071.

(g) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 9. Section 12084 of the Penal Code is amended to read:

12084. (a) As used in this section, the following definitions apply:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census, that elects to process purchases, sales, loans, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm or the person loaning the firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(4) "Purchase" means the purchase, loan, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale, transfer, or loan of a firearm through a licensed dealer pursuant to Section 12082, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that, instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT. For purposes of this paragraph, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person between the same two persons.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental

Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and, if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) (A) The agency may charge a fee, not to exceed actual cost, sufficient to reimburse the agency for processing the transfer.

(B) The department may charge a fee, not to exceed actual cost, sufficient to reimburse the department for providing the information. The department shall charge the same fee that it would charge a dealer pursuant to Section 12082.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of any correction to the LEFT, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later. On and after April 1, 1997, within 10 days of the application to purchase, or after notice by the department pursuant to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1, or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a handgun, commencing April 1, 1994, and until January 1, 2003, unless the purchaser presents to the seller a basic firearms safety certificate. Commencing January 1, 2003, in the case of a handgun, unless the purchaser presents to the seller a handgun safety certificate.

(H) Unless the purchaser is at least 18 years of age.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

(h) All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

SEC. 10. Article 8 (commencing with Section 12800) is added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

Article 8. Handgun Safety Certificate

12800. It is the intent of the Legislature in enacting this article to require that persons who obtain handguns have a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms. It is not the intent of the Legislature to require a handgun safety certificate for the mere possession of a firearm.

12801. (a) As used in this article, the following definitions shall apply:

(1) "Department" means the Department of Justice.

(2) "DOJ Certified Instructor" or "certified instructor" means a person designated as a handgun safety instructor by the Department of Justice pursuant to subdivision (d) of Section 12804.

(b) No person shall do either of the following:

(1) Purchase or receive any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, without a valid handgun safety certificate.

(2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, to any person who does not have a valid handgun safety certificate.

(c) Any person who violates subdivision (b) is guilty of a misdemeanor.

(d) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

12802. (a) No person may commit an act of collusion as specified in Section 12072.

(b) Any person who alters, counterfeits, or falsifies a handgun safety certificate, or who uses or attempts to use any altered, counterfeited, or falsified handgun safety certificate to purchase a handgun is guilty of a misdemeanor.

(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of this code shall not be punished under more than one provision.

12803. (a) No certified instructor may issue a handgun safety certificate to any person who has not complied with this article. Proof of compliance shall be forwarded to the department by certified instructors as frequently as the department may determine.

(b) No certified instructor may issue a handgun safety certificate to any person who is under 18 years of age.

(c) A violation of this section shall be grounds for the department to revoke the instructor's certification to issue handgun safety certificates.

12804. (a) The department shall develop an instruction manual in English and in Spanish by October 1, 2002. The department shall make the instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall make it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 12080.

(b) The department shall develop audiovisual materials in English and in Spanish by March 1, 2003, to be issued to instructors certified by the department.

(c) (1) The department shall develop a written objective test, in English and in Spanish, and prescribe its content, form, and manner, to be administered by an instructor certified by the department. If the person taking the test is unable to read, the examination shall be administered orally. The test shall cover, but not be limited to, all of the following:

(A) The laws applicable to carrying and handling firearms, particularly handguns.

(B) The responsibilities of ownership of firearms, particularly handguns.

(C) Current law as it relates to the private sale and transfer of firearms.

(D) Current law as it relates to the permissible use of lethal force.

(E) What constitutes safe firearm storage.

(F) Issues associated with bringing a handgun into the home.

(G) Prevention strategies to address issues associated with bringing firearms into the home.

(2) If the person taking the test is unable to read English or Spanish, the test may be applied orally by a translator.

(d) The department shall prescribe a minimum level of skill, knowledge and competency to be required of all handgun safety certificate instructors.

(e) If a dealer licensed pursuant to Section 12071 or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also designate a separate room or partitioned area for a person to take the objective test, and maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

(f) The department shall solicit input from any reputable association or organization, including any law enforcement association that has as one of its objectives the promotion of firearms safety, in the development of the handgun safety certificate instructional materials.

(g) The department shall develop handgun safety certificates to be issued by instructors certified by the department, to those persons who have complied with this article.

(h) The department shall be immune from any liability arising from implementing this section.

(i) The department shall update test materials related to this article every five years.

(j) Department Certified Instructor applicants shall have a certification to provide training from one of the following organizations as specified, or any entity found by the department to give comparable

instruction in firearms safety, or the applicant shall have similar or equivalent training to that provided by the following, as determined by the department:

(1) Department of Consumer Affairs, State of California-Firearm Training Instructor.

(2) Director of Civilian Marksmanship, Instructor or Rangemaster.

(3) Federal Government, Certified Rangemaster or Firearm Instructor.

(4) Federal Law Enforcement Training Center, Firearm Instructor Training Program or Rangemaster.

(5) United States Military, Military Occupational Specialty (MOS) as marksmanship or firearms instructor. Assignment as Range Officer or Safety Officer are not sufficient.

(6) National Rifle Association-Certified Instructor, Law Enforcement Instructor, Rangemaster, or Training Counselor.

(7) Commission on Peace Officer Standards and Training (POST), State of California-Firearm Instructor or Rangemaster.

(8) Authorization from a State of California accredited school to teach a firearm training course.

12805. (a) An applicant for a handgun safety certificate shall successfully pass the objective test referred to in paragraph (1) of subdivision (c) of Section 12804, with a passing grade of at least 75 percent. Any person receiving a passing grade on the objective test shall immediately be issued a handgun safety certificate by the instructor.

(b) An applicant who fails to pass the objective test upon the first attempt shall be offered additional instructional materials by the instructor such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission by the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours in order to retake the test.

(c) The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to the department pursuant to subdivision (e).

(d) An applicant to renew a handgun safety certificate shall be required to pass the objective test. The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant to subdivision (e).

(e) The department may charge the certified instructor up to fifteen dollars (\$15) for each handgun safety certificate issued by that instructor

to cover the department's cost in carrying out and enforcing this article, and enforcing this title, as determined annually by the department.

(f) All money received by the department pursuant to this article shall be deposited into the Firearms Safety and Enforcement Special Fund created pursuant to Section 12076.5.

(g) The department shall conduct enforcement activities, including, but not limited to, law enforcement activities to ensure compliance with Title 2 (commencing with Section 12000) of Part 4.

12806. (a) A handgun safety certificate shall include, but not be limited to, the following information:

- (1) A unique handgun safety certificate identification number.
- (2) The holder's full name.
- (3) The holder's date of birth.
- (4) The holder's driver's license or identification number.
- (5) The holder's signature.
- (6) The signature of the issuing instructor.
- (7) The date of issuance.

(b) The handgun safety certificate shall expire five years after the date that it was issued by the certified instructor.

12807. (a) The following persons, properly identified, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Any active or honorably retired federal officer or law enforcement agent.

(3) Any reserve peace officer, as defined in Section 832.6.

(4) Any person who has successfully completed the course of training specified in Section 832.

(5) A firearms dealer licensed pursuant to Section 12071, who is acting in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(6) A federally licensed collector who is acquiring or being loaned a handgun that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued to him or her by the department pursuant to Section 12071.

(7) A person to whom a handgun is being returned, where the person receiving the firearm is the owner of the firearm.

(8) A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Section 50081 of the Government Code.

(9) Any individual who has a valid concealed weapons permit issued pursuant to Section 12050.

(10) An active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified. For purposes of this section, proper identification includes the Armed Forces Identification Card, or other written documentation certifying that the individual is an active or honorably retired member.

(11) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(12) Persons who are the holders of a special weapons permit issued by the department pursuant to Section 12095, 12230, 12250, or 12305.

(b) The following persons who take title or possession of a handgun by operation of law in a representative capacity, until or unless they transfer title ownership of the handgun to themselves in a personal capacity, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) The executor or administrator of an estate.

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(3) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(4) A receiver performing his or her functions as a receiver.

(5) A trustee in bankruptcy performing his or her duties.

(6) An assignee for the benefit of creditors performing his or her functions as an assignee.

12808. (a) In the case of loss or destruction of a handgun safety certificate, the issuing instructor shall issue a duplicate certificate upon request and proof of identification to the certificate holder.

(b) The department may authorize the issuing instructor to charge a fee not to exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund, created pursuant to Section 12076.5.

12809. Except for the provisions of Section 12804, this article shall become operative on January 1, 2003.

SEC. 11. Section 12810 is added to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of the Penal Code, as added by Chapter 950 of the Statutes of 1991, to read:

12810. (a) This article is repealed on January 1, 2003, unless a later enacted statute that becomes operative on or before that date deletes or extends that date.

(b) Effective January 1, 2003, the Controller shall transfer all remaining funds in the Firearms Safety Training Fund Special Account to the Firearms Safety and Enforcement Special Fund created pursuant to Section 12076.5.

SEC. 12. (a) Section 2.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 22. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 12071 of the Penal Code, (3) SB 950 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 22, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and SB 950. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 12071 of the Penal Code, (3) AB 22 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 950, in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 22, and SB 950. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2002, (2) all three bills amend Section 12071 of the Penal Code, and (3) this bill is enacted after AB 22, and SB 950, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 13. This act shall only become operative if AB 35 is enacted and becomes effective on or before January 1, 2002. However, in order to avoid duplicate provisions, Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of the Penal Code, as proposed by AB 35 shall not become operative if this bill adds an article of the same number and this bill is chaptered last.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 943

An act to amend Sections 1405 and 1417.9 of the Penal Code, relating to forensic testing.

[Approved by Governor October 14, 2001. Filed with Secretary of State October 14, 2001.]

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

SECTION 1. Section 1405 of the Penal Code is amended to read: 1405. (a) A person who was convicted of a felony and is currently serving a term of imprisonment may make a written motion before the trial court that entered the judgment of conviction in his or her case, for performance of forensic deoxyribonucleic acid (DNA) testing.

(b) (1) An indigent convicted person may request appointment of counsel to prepare a motion under this section by sending a written request to the court. The request shall include the person's statement that he or she was not the perpetrator of the crime and that DNA testing is relevant to his or her assertion of innocence. The request also shall include the person's statement as to whether he or she previously has had counsel appointed under this section.

(2) If any of the information required in paragraph (1) is missing from the request, the court shall return the request to the convicted person and advise him or her that the matter cannot be considered without the missing information.

(3) (A) Upon a finding that the person is indigent, he or she has included the information required in paragraph (1), and counsel has not previously been appointed pursuant to this subdivision, the court shall appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(B) Upon a finding that the person is indigent, and counsel previously has been appointed pursuant to this subdivision, the court may, in its discretion, appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(4) Nothing in this section shall be construed to provide for a right to the appointment of counsel in a postconviction collateral proceeding, or to set a precedent for any such right, in any context other than the representation being provided an indigent convicted person for the limited purpose of filing and litigating a motion for DNA testing pursuant to this section.

(c) (1)The motion shall be verified by the convicted person under penalty of perjury and shall do all of the following:

(A) Explain why the identity of the perpetrator was, or should have been, a significant issue in the case.

(B) Explain, in light of all the evidence, how the requested DNA testing would raise a reasonable probability that the convicted person's verdict or sentence would be more favorable if the results of DNA testing had been available at the time of conviction.

(C) Make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought.

(D) Reveal the results of any DNA or other biological testing that was conducted previously by either the prosecution or defense, if known.

(E) State whether any motion for testing under this section previously has been filed and the results of that motion, if known.

(2) Notice of the motion shall be served on the Attorney General, the district attorney in the county of conviction, and, if known, the governmental agency or laboratory holding the evidence sought to be tested. Responses, if any, shall be filed within 60 days of the date on which the Attorney General and the district attorney are served with the motion, unless a continuance is granted for good cause.

(d) If the court finds evidence was subjected to DNA or other forensic testing previously by either the prosecution or defense, it shall order the party at whose request the testing was conducted to provide all parties and the court with access to the laboratory reports, underlying data, and laboratory notes prepared in connection with the DNA or other biological evidence testing.

(e) The court, in its discretion, may order a hearing on the motion. The motion shall be heard by the judge who conducted the trial, or accepted the convicted person's plea of guilty or nolo contendere, unless the presiding judge determines that judge is unavailable. Upon request of either party, the court may order, in the interest of justice, that the convicted person be present at the hearing of the motion.

(f) The court shall grant the motion for DNA testing if it determines all of the following have been established:

(1) The evidence to be tested is available and in a condition that would permit the DNA testing requested in the motion.

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered in any material aspect.

(3) The identity of the perpetrator of the crime was, or should have been, a significant issue in the case.

(4) The convicted person has made a prima facie showing that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime, special circumstance, or enhancement allegation that resulted in the conviction or sentence.

(5) The requested DNA testing results would raise a reasonable probability that, in light of all the evidence, the convicted person's verdict or sentence would have been more favorable if the results of DNA testing had been available at the time of conviction. The court in its discretion may consider any evidence whether or not it was introduced at trial.

(6) The evidence sought to be tested meets either of the following conditions:

(A) The evidence was not tested previously.

(B) The evidence was tested previously, but the requested DNA test would provide results that are reasonably more discriminating and probative of the identity of the perpetrator or accomplice or have a reasonable probability of contradicting prior test results.

(7) The testing requested employs a method generally accepted within the relevant scientific community.

(8) The motion is not made solely for the purpose of delay.

(g) If the court grants the motion for DNA testing, the court order shall identify the specific evidence to be tested and the DNA technology to be used. The testing shall be conducted by a laboratory mutually agreed upon by the district attorney in a noncapital case, or the Attorney General in a capital case, and the person filing the motion. If the parties cannot agree, the court shall designate the laboratory to conduct the testing and shall consider designating a laboratory accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB).

(h) The result of any testing ordered under this section shall be fully disclosed to the person filing the motion, the district attorney, and the Attorney General. If requested by any party, the court shall order production of the underlying laboratory data and notes.

(i) (1) The cost of DNA testing ordered under this section shall be borne by the state or the applicant, as the court may order in the interests of justice, if it is shown that the applicant is not indigent and possesses the ability to pay. However, the cost of any additional testing to be conducted by the district attorney or Attorney General shall not be borne by the convicted person.

(2) In order to pay the state's share of any testing costs, the laboratory designated in subdivision (e) shall present its bill for services to the superior court for approval and payment. It is the intent of the Legislature to appropriate funds for this purpose in the 2000-01 Budget Act.

(j) An order granting or denying a motion for DNA testing under this section shall not be appealable, and shall be subject to review only through petition for writ of mandate or prohibition filed by the person seeking DNA testing, the district attorney, or the Attorney General. The petition shall be filed within 20 days after the court's order granting or

denying the motion for DNA testing. In a noncapital case, the petition for writ of mandate or prohibition shall be filed in the court of appeal. In a capital case, the petition shall be filed in the California Supreme Court. The court of appeal or California Supreme Court shall expedite its review of a petition for writ of mandate or prohibition filed under this subdivision.

(k) DNA testing ordered by the court pursuant to this section shall be done as soon as practicable. However, if the court finds that a miscarriage of justice will otherwise occur and that it is necessary in the interests of justice to give priority to the DNA testing, a DNA laboratory shall be required to give priority to the DNA testing ordered pursuant to this section over the laboratory's other pending casework.

(l) DNA profile information from biological samples taken from a convicted person pursuant to a motion for postconviction DNA testing is exempt from any law requiring disclosure of information to the public.

(m) Notwithstanding any other provision of law, the right to file a motion for postconviction DNA testing provided by this section is absolute and shall not be waived. This prohibition applies to, but is not limited to, a waiver that is given as part of an agreement resulting in a plea of guilty or nolo contendere.

(n) 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. 2. Section 1417.9 of the Penal Code is amended to read:

1417.9. (a) Notwithstanding any other provision of law and subject to subdivision (b), the appropriate governmental entity shall retain all biological material that is secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for deoxyribonucleic acid (DNA) testing.

(b) A governmental entity may dispose of biological material before the expiration of the period of time described in subdivision (a) if all of the conditions set forth below are met:

(1) The governmental entity notifies all of the following persons of the provisions of this section and of the intention of the governmental entity to dispose of the material: any person, who as a result of a felony conviction in the case is currently serving a term of imprisonment and who remains incarcerated in connection with the case, any counsel of record, the public defender in the county of conviction, the district attorney in the county of conviction, and the Attorney General.

(2) The notifying entity does not receive, within 90 days of sending the notification, any of the following:

(A) A motion filed pursuant to Section 1405. However, upon filing of that motion, the governmental entity shall retain the material only until the time that the court's denial of the motion is final.

(B) A request under penalty of perjury that the material not be destroyed or disposed of because the declarant will file within 180 days a motion for DNA testing pursuant to Section 1405 that is followed within 180 days by a motion for DNA testing pursuant to Section 1405, unless a request for an extension is requested by the convicted person and agreed to by the governmental entity in possession of the evidence.

(C) A declaration of innocence under penalty of perjury that has been filed with the court within 180 days of the judgment of conviction or July 1, 2001, whichever is later. However, the court shall permit the destruction of the evidence upon a showing that the declaration is false or there is no issue of identity that would be affected by additional testing. The convicted person may be cross-examined on the declaration at any hearing conducted under this section or on an application by or on behalf of the convicted person filed pursuant to Section 1405.

(3) No other provision of law requires that biological evidence be preserved or retained.

(c) Notwithstanding any other provision of law, the right to receive notice pursuant to this section is absolute and shall not be waived. This prohibition applies to, but is not limited to, a waiver that is given as part of an agreement resulting in a plea of guilty or nolo contendere.

(d) This section shall remain in effect only until January 1, 2003, and on that date is repealed unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

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

CHAPTER 944

An act to amend Sections 12001.6, 12021, and 12071 of, to add Section 12028.7 to, and to add Article 1.5 (commencing with Section

12010) to Chapter 1 of Title 2 of Part 4 of, the Penal Code, relating to firearms.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 12001.6 of the Penal Code is amended to read:
12001.6. As used in this chapter, an offense which involves the violent use of a firearm includes any of the following:

(a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a violation of subdivision (d) of Section 245.

(b) A violation of Section 246.

(c) A violation of paragraph (2) of subdivision (a) of Section 417.

(d) A violation of subdivision (c) of Section 417.

SEC. 2. Article 1.5 (commencing with Section 12010) is added to Chapter 1 of Title 2 of Part 4 of the Penal Code, to read:

Article 1.5. Prohibited Armed Persons File

12010. (a) The Attorney General shall establish and maintain an online data base to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a Dealers' Record of Sale recorded in the Automated Firearms System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm.

(b) The information contained in the Prohibited Armed Persons File shall only be available to those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms.

12011. The Prohibited Armed Persons File data base shall function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Section 12021, a conviction for an offense described in Section 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Automated Firearms System indicating possession or

ownership of a firearm on or after January 1, 1991, or an assault weapon registration.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited from acquiring, owning, or possessing firearms, the department shall determine if the subject has an entry in the Automated Firearms System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration.

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Automated Firearms System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, the following information shall be entered into the Prohibited Armed Persons File:

- (1) The subject's name.
- (2) The subject's date of birth.
- (3) The subject's physical description.
- (4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.
- (5) The basis of the firearms possession prohibition.
- (6) A description of all firearms owned or possessed by the subject, as reflected by the Automated Firearms System.

12012. The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm.

SEC. 3. 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) (1) 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.

(2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this section from owning, possessing or having under his or her custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. Failure to provide the notice shall not be a defense to a violation of this section.

(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. 4. Section 12028.7 is added to the Penal Code, to read:

12028.7. (a) Except where a procedure is already provided by existing law, or other provisions of law apply, when a firearm is taken into custody by a law enforcement officer, the officer shall issue the person who possessed the firearm a receipt describing the firearm, and listing any serial number or other identification on the firearm.

(b) The receipt shall indicate where the firearm may be recovered and the date after which the owner or possessor may recover the firearm, provided however, that no firearm shall be held less than 48 hours, and no more than 72 hours. In any civil action or proceeding for the return of a firearm seized and not returned within 72 hours, pursuant to this section, the court shall award reasonable attorney's fees to the prevailing party.

(c) Nothing in this section is intended to displace any existing law regarding the seizure or return of firearms.

SEC. 5. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the

application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR

LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated

by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this article, a "basic firearms safety certificate" means a basic firearms safety certificate issued to the purchaser, transferee, or person being loaned the firearm by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

(3) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars

of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(4) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(5) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 5.1. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term “licensee,” “person licensed pursuant to Section 12071,” or “dealer” means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller’s permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller’s permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department’s records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face “Valid for Retail Sales of Firearms” and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant’s intended business location stating that the jurisdiction does not require any form of regulatory or

business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE

PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange dummy round into the magazine.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.

- (XI) Apply the safety, if applicable.
- (XII) Apply the firearm safety device, if applicable.
 - (ii) If the handgun is a double-action revolver:
 - (I) Open the cylinder.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Close the cylinder.
 - (VI) Open the cylinder and eject the round.
 - (VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VIII) Apply the firearm safety device, if applicable.
 - (iii) If the handgun is a single-action revolver:
 - (I) Open the loading gate.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Open the loading gate and unload the revolver.
 - (VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VII) Apply the firearm safety device, if applicable.
 - (E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.
 - (F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.
 - (G) The recipient shall perform the safe handling demonstration for a department certified instructor.
 - (H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 5.2. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face “Valid for Retail Sales of Firearms” and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant’s intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined

in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR

SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(8) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, “licensed premises,” “licensed place of business,” “licensee’s place of business,” or “licensee’s business premises” means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A “firearms transaction record” is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(5) For purposes of this section, “residential dwelling” means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(6) For purposes of this section, “gunsmith” means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 5.3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

- (A) A valid federal firearms license.
- (B) Any regulatory or business license, or licenses, required by local government.
- (C) A valid seller's permit issued by the State Board of Equalization.
- (D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).
- (E) A license issued in the format prescribed by paragraph (6).
- (F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

- (A) In the form prescribed by the Attorney General.
- (B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.
- (C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(8) (A) Except where subparagraph (B) applies, commencing January 1, 2004, no license shall be granted to any applicant if the

building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section.

(B) Notwithstanding subparagraph (A), a license may be granted to an applicant if the building to be designated in the license where the retail sale of firearms is to occur is a residential dwelling, as defined in this section, in any of the following circumstances:

(i) The building is located in a county with a population of less than 100,000 persons according to the most recent federal decennial census.

(ii) The applicant is a gunsmith seeking to engage in gunsmithing activities in the residential dwelling.

(iii) The applicant will only sell at retail, firearms that are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(iv) The building, structure, or unit is zoned for commercial, retail, or industrial activity.

(v) The applicant was initially granted a license pursuant to this section prior to January 1, 2002, and is physically disabled or handicapped and has substantially modified the residential dwelling to enable the licensee to function in that residential dwelling.

(C) Nothing in this paragraph shall be construed to prevent a local government from enacting an ordinance that imposes additional conditions on licensees with regard to the location of a building designated in a license granted pursuant to this section that are more restrictive than the prohibitions set forth in this section.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or

a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or

other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and

along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

- (i) If the handgun is a semiautomatic pistol:
 - (I) Remove the magazine.
 - (II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.
 - (III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.
 - (IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (V) Load one bright orange dummy round into the magazine.
 - (VI) Insert the magazine into the magazine well of the firearm.
 - (VII) Manipulate the slide release or pull back and release the slide.
 - (VIII) Remove the magazine.
 - (IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.
 - (X) Lock the slide back to eject the bright orange dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.
 - (XI) Apply the safety, if applicable.
 - (XII) Apply the firearm safety device, if applicable.
- (ii) If the handgun is a double-action revolver:
 - (I) Open the cylinder.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.
 - (III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
 - (IV) While maintaining muzzle awareness and trigger discipline, load one bright orange dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.
 - (V) Close the cylinder.
 - (VI) Open the cylinder and eject the round.
 - (VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.
 - (VIII) Apply the firearm safety device, if applicable.
- (iii) If the handgun is a single-action revolver:
 - (I) Open the loading gate.
 - (II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the

licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 178.102 (c) of Title 27 of the Code of Federal Regulations.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this article, a "basic firearms safety certificate" means a basic firearms safety certificate issued to the purchaser, transferee, or person being loaned the firearm by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

(3) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(4) As used in this section, “licensed premises,” “licensed place of business,” “licensee’s place of business,” or “licensee’s business premises” means the building designated in the license.

(5) For purposes of paragraph (17) of subdivision (b):

(A) A “firearms transaction record” is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 178.124 of Title 27 of the Code of Federal Regulations.

(6) For purposes of this section, “residential dwelling” means any structure which is occupied and primarily used for dwelling purposes, including any other structure, building, or unit located upon the parcel of land where the structure used for dwelling is situated.

(7) For purposes of this section, “gunsmith” means any person engaged primarily in the business of repairing firearms, or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located. The department shall make information about an individual dealer available, upon request, for one of the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b). Information provided pursuant to this paragraph shall be limited to information necessary to corroborate an individual's current license status.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 6. The Legislature finds and declares that current state firearms laws do not delineate a clear and succinct general procedure on how persons who legally acquire firearms and who subsequently fall within a class of persons who are prohibited from possessing firearms

shall dispose of the firearm and thereby avoid criminal liability for possession or disposing of the firearm.

SEC. 7. The Attorney General shall prepare and submit to the Legislature, on or before June 1, 2002, a report concerning the following:

(a) Recommending a clear and succinct general procedure on how persons who legally acquire firearms and who subsequently fall within a class of persons who are prohibited from possessing firearms shall dispose of the firearm and thereby avoid criminal liability for possession or disposing of the firearm.

(b) Recommending specific changes in language and references to code sections, and conforming changes to code sections, in state firearms statutes that are needed to establish the procedure recommended in subdivision (a).

SEC. 8. (a) Section 5.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 35 and SB 52. It shall only become operative if (1) this bill and AB 35 or SB 52 or both are enacted, become effective on or before January 1, 2002, and one or both become operative (2) each bill amends Section 12071 of the Penal Code, (3) AB 22 is not enacted or as enacted does not amend that section, and (4) this bill is enacted last, in which case Sections 5, 5.2, and 5.3 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 22. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 12071 of the Penal Code, (3) AB 35 and SB 52 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 22, in which case Sections 5, 5.1, and 5.3 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 35, SB 52, and AB 22. It shall only become operative if (1) AB 35 or SB 52 or both are enacted, become effective on or before January 1, 2002, and one or both become operative (2) this bill and AB 22 are enacted and become effective on or before January 1, 2002, (3) all bills that are enacted amend Section 12071 of the Penal Code, and (3) this bill is enacted last, in which case Sections 5, 5.1, and 5.2 of this bill shall not become operative.

SEC. 9. Section 2 of this act shall become operative on July 1, 2002, and only if funds are appropriated to the Department of Justice in the 2002–03 Budget Act for the purposes described therein.

CHAPTER 945

An act to amend Sections 19805, 19823A, 19827, 19841A, 19851.5, 19853.5, 19910, 19910.5A, and 19950.3 of, to add Sections 19818A and 19823.5 to, and to repeal Sections 19818, 19830, and 19834 of, the Business and Professions Code, relating to gambling.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 19805 of the Business and Professions Code is amended to read:

19805. As used in this chapter, the following definitions shall apply:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) "Applicant" means any person who has applied for, or is about to apply for, a state gambling license, a key employee license, a registration, a finding of suitability, a work permit, a manufacturer's or distributor's license, or an approval of any act or transaction for which the approval or authorization of the commission or division is required or permitted under this chapter. "Banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

(d) "Board" means the California Gambling Control Board.

(e) "Commission" means the California Gambling Control Commission.

(f) "Controlled gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(g) "Controlled game" means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(h) "Director," when used in connection with a corporation, means any director of a corporation or any person performing similar functions

with respect to any organization. In any other case, “director” means the Director of the Division of Gambling Control.

(i) “Division” means the Division of Gambling Control in the Department of Justice.

(j) “Finding of suitability” means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19848, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in subdivision (a) of Section 19850.

(k) “Game” and “gambling game” means any controlled game.

(l) “Gambling” means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(m) “Gambling enterprise employee” means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floormen, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(n) “Gambling establishment,” “establishment,” or “licensed premises” means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(o) “Gambling license” or “state gambling license” means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(p) “Gambling operation” means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(q) “Gross revenue” means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(r) “House” means the gambling establishment, and any owner, shareholder, partner, key employee, or landlord thereof.

(s) “Independent agent,” except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(t) “Institutional investor” means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the

Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the board may determine for reasons consistent with the policies of this chapter.

(u) "Key employee" means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the division for reasons consistent with the policies of this chapter.

(v) "Key employee license" means a state license authorizing the holder to be associated with a gambling enterprise as a key employee.

(w) "Licensed gambling establishment" means the gambling premises encompassed by a state gambling license.

(x) "Limited partnership" means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(y) "Limited partnership interest" means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(z) "Owner licensee" means an owner of a gambling enterprise who holds a state gambling license.

(aa) "Person," unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(ab) "Player" means a patron of a gambling establishment who participates in a controlled game.

(ac) "Player-dealer" and "controlled game featuring a player-dealer position" refer to a position in a controlled game, as defined by the approved rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at

the same table, provided that this position is rotated amongst the other seated players in the game.

(ad) "Publicly traded racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(ae) "Qualified racing association" means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(af) "Work permit" means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SEC. 2. Section 19818 of the Business and Professions Code is repealed.

SEC. 3. Section 19818A is added to the Business and Professions Code, to read:

19818A. The commission may employ not more than eight attorneys. Nothing herein shall be deemed to exempt the commission from the operation of Section 11040, 11042, or 11043 of the Government Code.

SEC. 4. Section 19823A of the Business and Professions Code is amended to read:

19823A. (a) The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter, including, without limitation, the power to do all of the following:

(1) Require any person to apply for a license or approval as specified in this chapter.

(2) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved.

(3) Approve or disapprove transactions, events, and processes as provided in this chapter.

(4) Take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities.

(5) Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.

(6) Grant temporary licenses, work permits, or approvals on appropriate terms and conditions.

(7) Institute a civil action in any superior court against any person subject to this chapter to restrain a violation of this chapter. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

(8) Issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the commission or its committees, including advisory committees.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 5. Section 19823.5 is added to the Business and Professions Code, to read:

19823.5. The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a license, permit, or a finding of suitability, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Section 19827 of the Business and Professions Code is amended to read:

19827. (a) Without limiting any privilege that is otherwise available under law, any communication or publication from, or concerning, an applicant, licensee, or registrant, in oral, written, or any other form, is absolutely privileged and so shall not form a basis for imposing liability for defamation or constitute a ground for recovery in any civil action, under any of the following circumstances:

(1) It was made or published by an agent or employee of the division or commission in the proper discharge of official duties or in the course of any proceeding under this chapter.

(2) It was required to be made or published to the division or commission, or any of their agents or employees, by law, regulation, or subpoena of the division or the commission.

(3) It was, in good faith, made or published to the division or the commission for the purpose of causing, assisting, or aiding an investigation conducted pursuant to this chapter.

(b) If any document or communication provided to the division or the commission contains any information that is privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, that privilege is not waived or lost because the

document or communication is disclosed to the division or the commission or to any of their agents or employees.

(c) The division, the commission, and their agents and employees shall not release or disclose any information, documents, or communications provided by an applicant, licensee, or other person, that are privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, without the prior written consent of the holder of the privilege, or pursuant to lawful court order after timely notice of the proceedings has been given to the holder of the privilege. An application to a court for an order requiring the division or the commission to release any information declared by law to be confidential shall be made only upon motion made in writing on not less than 10 business days' notice to the division or the commission, and to all persons who may be affected by the entry of the order.

SEC. 7. Section 19830 of the Business and Professions Code is repealed.

SEC. 8. Section 19834 of the Business and Professions Code is repealed.

SEC. 9. Section 19841A of the Business and Professions Code is amended to read:

19841A. (a) An owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for and obtains a state gambling license:

(1) If the owner is a corporation, then each officer, director, and shareholder, other than a holding or intermediary company, of the owner. The foregoing does not apply to an owner that is either a publicly traded racing association or a qualified racing association.

(2) If the owner is a publicly traded racing association, then each officer, director, and owner, other than an institutional investor, of five percent or more of the outstanding shares of the publicly traded corporation.

(3) If the owner is a qualified racing association, then each officer, director, and shareholder, other than an institutional investor, of the subsidiary corporation and any owner, other than an institutional investor, of five percent or more of the outstanding shares of the publicly traded corporation.

(4) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(5) If the owner is a trust, then the trustee and, in the discretion of the commission, any beneficiary and the trustor of the trust.

(6) If the owner is a business organization other than a corporation, partnership, or trust, then all those persons as the commission may require, consistent with this chapter.

(7) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(8) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 9.5. Section 19851.5 of the Business and Professions Code is amended to read:

19851.5. Notwithstanding subdivision (i) of Section 19801, the commission shall not deny a license to a gambling establishment solely because it is not open to the public, provided that all of the following are true: (a) the gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; (b) the gambling establishment consists of no more than five gaming tables; (c) videotaped recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed circuit television cameras, and these tapes are retained for a period of 30 days and are made available for review by the division or commission upon request; and (d) the gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997.

A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until November 30, 2003, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19950.1 and 19950.2, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section. Prior to the commission's issuance of a license to a private club, the division shall ensure that the ownership of the gambling establishment has remained constant since January 1, 1998, and the operation of the gambling establishment has not been leased to any third party.

SEC. 10. Section 19853.5 of the Business and Professions Code is amended to read:

19853.5. The division shall furnish to the applicant supplemental forms, which the applicant shall complete and file with the division. These supplemental forms shall require, but shall not be limited to requiring, complete information and details with respect to the applicant's personal history, habits, character, criminal record, business activities, financial affairs, and business associates, covering at least a 10-year period immediately preceding the date of filing of the application. Each applicant shall submit two sets of fingerprints, using "live scan" or other prevailing, accepted technology, or on forms provided by the division. The division may submit one fingerprint card to the United States Federal Bureau of Investigation.

SEC. 11. Section 19910 of the Business and Professions Code is amended to read:

19910. The Legislature finds that to protect and promote the health, safety, good order, and general welfare of the inhabitants of this state, and to carry out the policy declared by this chapter, it is necessary that the division ascertain and keep itself informed of the identity, prior activities, and present location of all gambling enterprise employees and independent agents in the State of California, and when appropriate to do so, recommend to the commission for approval persons for employment in gambling establishments as provided in this article.

SEC. 12. Section 19910.5A of the Business and Professions Code is amended to read:

19910.5A. (a) (1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as provided in paragraph (2), unless he or she is the holder of one of the following:

(A) A valid work permit issued in accordance with the applicable ordinance or regulations of the county, city, or city and county in which his or her duties are performed.

(B) A work permit issued by the commission pursuant to regulations adopted by the commission for the issuance and renewal of work permits. A work permit issued by the commission shall be valid for two years.

(2) An independent agent is not required to hold a work permit if he or she is not a resident of this state and has registered with the division in accordance with regulations.

(b) A work permit shall not be issued by any city, county, or city and county to any person who would be disqualified from holding a state gambling license for the reasons specified in paragraphs (1) to (7), inclusive, of subdivision (a) of Section 19850.

(c) The division may object to the issuance of a work permit by a city, county, or city and county for any cause deemed reasonable by the division, and if the division objects to issuance of a work permit, the work permit shall be denied.

(1) The commission shall adopt regulations specifying particular grounds for objection to issuance of, or refusal to issue, a work permit.

(2) The ordinance of any city, county, or city and county relating to issuance of work permits shall permit the division to object to the issuance of any permit.

(3) Any person whose application for a work permit has been denied because of an objection by the division may apply to the commission for an evidentiary hearing in accordance with regulations.

(d) Application for a work permit for use in any jurisdiction where a locally issued work permit is not required by the licensing authority of a city, county, or city and county shall be made to the commission, and may be granted or denied for any cause deemed reasonable by the commission. If the commission denies the application, it shall include in its notice of denial a statement of facts upon which it relied in denying the application. Upon receipt of an application for a work permit, the commission may issue a temporary work permit for a period not to exceed 120 days, pending completion of the background investigation by the division and official action by the commission with respect to the work permit application.

(e) An order of the commission denying an application for a work permit, including an order declining to issue a work permit following review pursuant to paragraph (3) of subdivision (c), may be reviewed in accordance with subdivision (e) of Section 19858.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 13. Section 19950.3 of the Business and Professions Code is amended to read:

19950.3. (a) In addition to any other limitations on the expansion of gambling imposed by Section 19950.2 or any provision of this chapter, the commission shall not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

CHAPTER 946

An act to add Section 21670.3 to, and to add Division 17 (commencing with Section 170000) to, the Public Utilities Code, and to amend Sections 4 and 5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), relating to airports.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 21670.3 is added to the Public Utilities Code, to read:

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, is responsible for coordinating the airport planning of public agencies within the county and shall, on or before June 30, 2005, after reviewing the existing comprehensive land use plan adopted pursuant to Section 21675, adopt a comprehensive land use plan.

(b) Any comprehensive land use plan developed pursuant to Section 21675 and adopted pursuant to Section 21675.1 by the San Diego Association of Governments shall remain in effect until June 30, 2005, unless the San Diego County Regional Airport Authority adopts a plan prior to that date pursuant to subdivision (a).

SEC. 2. Division 17 (commencing with Section 170000) is added to the Public Utilities Code, to read:

DIVISION 17. SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY

CHAPTER 1. GENERAL PROVISIONS

170000. This division shall be known and may be cited as the San Diego County Regional Airport Authority Act.

170002. There is hereby established the San Diego County Regional Airport Authority, as a local governmental entity of regional government, with jurisdiction extending throughout the County of San Diego.

170004. The Legislature hereby finds and declares all of the following:

(a) The population in San Diego County is forecasted to grow to 4.1 million persons by 2030, a 45 percent increase over its population in 2000. In light of this growth, it is incumbent upon the region to take

actions to provide for an economy that will create sufficient opportunity and wealth to ensure a high quality of life for all its residents.

(b) The globally competitive, export-oriented electronics, communications, and biotechnology industries of San Diego County already employ over 300,000 persons, nearly a third of the local labor force, and will continue to drive the region's economy as it competes in the expanding national and international markets.

(c) Air transportation will be an important factor in fostering continued economic growth in San Diego County, as technology workers travel by air 40 percent more frequently than workers in other sectors of the economy.

(d) According to the Joint Aviation Advisory Committee established by the San Diego Association of Governments and the San Diego Unified Port District, San Diego International Airport today contributes about \$4.3 billion to the San Diego regional economy, which is about 4 percent of the total output of the region's economy. With the demand for air travel expected to more than double to 35 million passengers in 2030, an airport capable of supporting that demand would contribute up to \$8 billion to the regional economy. Failure to increase San Diego's regional airport capacity would result in 56,000 fewer jobs and up to \$2.5 billion less in personal income by 2030. More than 50 percent of the reduction in jobs would occur in the industries related to air exports, including the high-technology industries that manufacture machinery, electronic equipment, and instruments. The balance of the impact would be in the visitor-related industries.

(e) The San Diego Regional Government Efficiency Commission was established under Chapter 764 of the Statutes of 2000 to evaluate regional governance in San Diego County and to submit a report to the Legislature for improving regional governance. To facilitate its purpose, that commission formed a Port Working Group, a Governance Working Group, a Transportation Working Group, and an Environmental and Land Use Working Group to examine regional governance in the region and to propose options for its improvement. The Port Working Group studied the role and function of the San Diego Unified Port District and in collaboration with the Transportation Working Group created a special joint committee to examine airport development issues in the region. After reviewing the options developed by the joint committee, the commission has recommended to the Legislature, by resolution adopted on July 6, 2001, that a new airport authority be created by statute in San Diego County.

(f) Because of the significant regional consequences of airport development and operations, it is important that the future development of major airport facilities in San Diego County be addressed in the

context of a regional decisionmaking process that has regional representation.

(g) In an effort to assure the continued military readiness of the United States Department of Defense (DOD), comprehensive airport planning must consider and protect military airspace needs in the San Diego region. The activities of the DOD in the San Diego region require mission-essential airspace for training and operations. In addition, the DOD has direct economic expenditures in San Diego County of nearly \$10 billion annually, and represents over 376,000 residents of the region. For these reasons, the DOD is a major stakeholder in the region's comprehensive plans for a viable airport solution.

170006. For the purposes of this division, the following terms have the following meanings, unless the context requires otherwise.

(a) The "authority" means the San Diego County Regional Airport Authority established under this division.

(b) The "board" means the governing board of the authority established as specified in Section 170016.

(c) The "interim board" means the limited term board established as specified in Section 170012.

(d) The "port" means the San Diego Unified Port District established under the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session).

(e) The "San Diego International Airport" means the airport located at Lindbergh Field in the County of San Diego.

(f) (1) The "north area cities" mean the cities of Carlsbad, Del Mar, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista.

(2) The "south area cities" mean the cities of Coronado, Imperial Beach, Chula Vista, National City, Lemon Grove, El Cajon, La Mesa, Santee, and Poway.

CHAPTER 2. GOVERNING BODY

170010. The interim executive director of the authority shall be the person who is the Senior Director of Aviation of the port on September 1, 2001. The interim executive director shall undertake all regular and necessary measures and decisions for the efficient operation of the authority until January 6, 2003.

170012. (a) There shall be an interim board of the authority to advise the interim executive director, to prepare and adopt the transition plan required under Section 170062, and to oversee the activities required pursuant to subdivisions (c), (d), (e), and (f) of Section 170048.

(b) The interim board shall be chaired by the interim executive director.

(c) The interim executive director shall appoint five members to the interim board. The members shall be geographically representative of San Diego County and shall be serving as elected officials of, appointees to, or representatives of local, state, or federal governmental agencies or bodies, at the time of appointment.

(d) The first meeting of the interim board shall be on January 7, 2002, at a time and location to be determined by the chair. Thereafter, the chair shall hold monthly public meetings of the interim board.

(e) The interim board shall be dissolved on December 2, 2002.

170014. To assist the interim board and the interim executive director on all matters related to the transition of San Diego International Airport to the authority, a management advisory committee shall be appointed, with membership as follows:

(a) The general manager of the San Diego Metropolitan Transit Development Board.

(b) The executive director of the San Diego Association of Governments, a joint exercise of powers agency.

(c) The executive director of the North San Diego County Transit District.

(d) A representative of the port, appointed by the board of directors of the port.

170016. (a) The permanent board shall be established pursuant to this section. The board shall consist of nine members, with three members serving in an executive committee.

(b) The following three members shall comprise the executive committee.

(1) A member of the public who shall be appointed by the Board of Supervisors of the County of San Diego and shall be a resident of an unincorporated area of the county. The initial term for this member shall be two years.

(2) A member of the public who shall be appointed by the Governor and confirmed by the Senate, shall reside in the County of San Diego, but not within the City of San Diego. The initial term for this member, upon confirmation of the Senate, shall be six years.

(3) A member the public who shall be appointed by the Mayor of the City of San Diego and shall be confirmed by a majority vote of the San Diego City Council. The initial term for this member shall be four years.

(c) The remaining six members of the board shall be as follows:

(1) The Mayor of the City of San Diego, or a member of the city council designated by the mayor to be his or her alternate.

(2) A member the public appointed by the Mayor of the City of San Diego. The initial term for this member shall be two years.

(3) The mayor of the most populous city, as of the most recent decennial census, among the north area cities. If that mayor declines to

serve, he or she shall appoint a member of the public who is a resident of one of north area cities. The initial term for this member shall be two years.

(4) (A) If the member serving under paragraph (3) is a mayor, then a member of the public selected by the mayors of the north area cities from one of those cities, excluding the most populous city.

(B) If the person serving under paragraph (3) is not a mayor, then the mayors of the north area cities shall select a mayor or council member of a north area city, excluding the most populous city, to serve as the member.

(C) The initial term for this member shall be four years.

(5) The mayor of the most populous city, as of the most recent decennial census, among the south area cities. If that mayor declines to serve, he or she shall appoint a member of the public who is a resident of one of south area cities. The initial term for this member shall be six years.

(6) (A) If the member serving under paragraph (5) is a mayor, then a member of the public selected by the mayors of the south area cities from one of those cities, excluding the most populous city.

(B) If the person serving under paragraph (5) is not a mayor, then the mayors of the south area cities shall select a mayor or council member of a south area city, excluding the most populous city, to serve as the member.

(C) The initial term for this member shall be four years.

(d) The initial chair shall be the person appointed to the board pursuant to paragraph (2) of subdivision (b). Thereafter, the executive committee shall appoint the chair, who shall serve for a two-year portion of his or her term as a board member, upon confirmation of the full board. A chair may be appointed to consecutive terms, subject to confirmation of the full board.

(e) (1) Members appointed to the first board shall be appointed on or before October 31, 2002, and shall be seated as the board on December 2, 2002.

(2) Any appointment not filled by the respective appointing authority on or before December 1, 2002, shall be filled by appointment by the Governor, consistent with the eligibility requirements of this section for that membership position.

(f) (1) After the initial term, all terms shall be 4 years, except as otherwise required under Subdivision (b) of Section 170018.

(2) The expiration date of the term of office shall be the first Monday in December in the year in which the term is to expire.

170018. (a) The appointing authority for a member whose term has expired shall appoint that member's successor for a full term of four years.

(b) The membership of any member serving on the board as a result of holding another public office shall terminate when the member ceases holding the other public office.

(c) Any vacancy in the membership of the board shall be filled for the expired term by a person selected by appointing authority for that position.

170020. A member may be removed only for cause and only by his or her appointing authority.

170022. Any member may be reappointed to additional terms.

170024. (a) Except for the members of the executive committee, members shall be paid one hundred dollars (\$100) per regular, special, or committee meetings, for not more than four meetings per month.

(b) Members of the executive committee shall receive a salary equal to the salary of superior court judge in the County of San Diego.

(c) Members may be paid for direct out-of-pocket expenses.

(d) The board shall adopt a compensation and reimbursement policy within three months of being constituted.

170026. (a) The executive committee shall appoint the following officers of the authority subject to confirmation of the board:

(1) Executive Director.

(2) General Counsel.

(3) Auditor.

(b) The executive director shall appoint all other officers and employees.

CHAPTER 3. POWERS AND DUTIES

170030. The authority has perpetual succession and may adopt a seal and alter it at its pleasure.

170032. The authority may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

170034. All the provisions of Section 120242 are applicable to the authority, and the authority may exercise those provisions within its area of jurisdiction.

170038. The authority may take by grant, purchase, devise, or lease or otherwise acquire and hold, real and personal property outside its area of jurisdiction in order to further its purposes.

170040. The authority may contract with any department or agency of the United States, with any state or local governmental agency, or with any person upon those terms and conditions that the authority finds are in its best interests.

170042. The board may act only by ordinance or resolution. A majority of the membership of the board shall constitute a quorum for the transaction of business.

170044. Except as otherwise specifically provided to the contrary in this chapter, a recorded majority vote of the total membership of the board of directors is required on each action.

170046. The authority shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles as adopted by the Government Accounting Standards Board (GASB) of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

170048. (a) The authority shall have the exclusive responsibility within its area of its jurisdiction to study and plan any improvements, expansion, or enhancements that affect the regional airport system of San Diego County.

(b) The authority may commission planning, engineering, economic, and other studies to provide information to the board for making decisions about the location, design, management, and other features of a future airport.

(c) The San Diego Association of Governments, or its successor, shall include all airport system plans and facilities selected by the authority in the regional transportation plan.

(d) (1) Not later than 60 days after the effective date of this chapter, the San Diego Association of Governments and the port shall transfer and assign to the authority all contracts in force for studying possible sites for an airport, the economic viability and impact of an airport, the environmental consequences of an airport, public opinion or attitudes regarding an airport's location, and any other contracts related to the location and development of an airport in the County of San Diego.

(2) The contracts described in paragraph (1) shall include, but need not be limited to, the contracts associated with the Joint Aviation Advisory Committee.

(3) The transfer of contracts required under this subdivision shall include the revenue from state or federal grants, local funds, and other sources of revenue committed to funding the contracts until their completion.

(e) The policy direction for the study described in subdivision (d) shall become the responsibility of the authority. The authority shall consider the concepts and ideas of the San Diego Association of Governments, the port, and other entities, both public and private.

(f) The authority may continue the Joint Aviation Advisory Committee to assist in conducting the analyses for determining a site for a new airport.

(g) The authority, the San Diego Association of Governments, local agencies, and the Department of Transportation shall cooperate to

develop effective surface transportation access to new and existing airports.

170050. The authority shall be the only agency, public or private, in the County of San Diego that is eligible to take ownership of airports owned by the United States government and are declared surplus or are otherwise made available to state or local governmental agencies.

170052. The authority shall be responsible for developing all aspects of airport facilities that it operates, including, but not limited to, all of the following:

(a) The location of terminals, hangers, aids to air navigation, parking lots and structures, and all other facilities and services necessary to serve passengers and other customers of the airport.

(b) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(c) Providing for public mass transportation access in cooperation and coordination with the responsible public transportation agency in whose jurisdiction the airport is located.

(d) Analyzing and developing intercity bus and passenger rail access to terminals in cooperation with an established agency or organization experienced in developing and operating that service, if the service or the technology proposed for implementation is demonstrated to be in regular, scheduled revenue service and is demonstrated to be a cost-effective investment when considering both direct and indirect benefits. If that service is proven feasible, the authority shall endeavor to maximize the convenience of its patrons by incorporating the service into the design of its terminals.

170054. (a) The authority shall form an advisory committee to assist it in performing its responsibilities related to the planning and development of all airport facilities for the County of San Diego, including the airport activities and operations of the United States Department of Defense. In selecting members for the committee, the authority shall include persons knowledgeable about airport management, passenger and freight air transportation operations and economics, general aviation, the natural environment, regional economic development, business, including the technology sector of the economy.

(b) To the extent feasible, the advisory committee shall include representatives from the Department of Transportation, local public transit authorities, local governments, the campuses of the University of California and the California State University in the region, the United States Department of Defense, and other groups and residents of San Diego County.

(c) When forming the advisory committee, the authority shall make its selections for membership from individuals representing all elements of the County of San Diego.

170056. The port shall transfer the title and ownership of the San Diego International Airport to the authority. The transfer shall be consistent with the transition plan required under Section 170062 and shall include, but need not be limited to, all of the following:

(a) All real and personal property, including, but not limited to, all terminals, runways, taxiways, aprons, hangers, aids to air navigation, emergency vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport.

(b) All contracts with airport tenants, concessionaires, leaseholders, and others.

(c) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, bonded indebtedness associated with the airport.

(d) All financial reserves, including, but not limited to, sinking funds and other credits.

(e) All office equipment, including, but not limited to, computers, records and files, software required for financial management, personnel management, and accounting and inventory systems.

170058. Property that is adjacent to the San Diego International Airport, is owned by the port, and is commonly referred to as the "General Dynamics Property" shall continue to be operated by the port as a parking facility.

170058.5. If the authority is required to acquire the "General Dynamics Property" described in Section 170058 as part of an adopted airport expansion plan, the value of the property for purposes of that acquisition shall be set at the fair market value that the property holds on June 30, 2001, plus an adjustment for inflation.

170059. The port, in consultation with the authority, may relocate parking facilities. However, the port may not take any action to diminish the amount of parking available at the San Diego International Airport without the concurrence of the authority.

170060. The authority shall be the trustee of any public lands and other assets transferred from the port to the authority. The authority shall hold and administer those lands and assets pursuant to the terms and conditions set forth in the San Diego Port District Act for the purposes of operating airport facilities. The trusteeship of those lands and assets shall revert to the port on the date that airport operations cease on those lands.

170062. (a) Under the leadership of the interim board, a transition plan shall be developed to facilitate the transfer of the San Diego

International Airport to the authority. To facilitate the preparation of a transition plan, the authority and the port may jointly commission a certified audit to determine the financial condition of the San Diego International Airport, including, but not limited to, the obligations of the airport and the reasonableness of the overhead charges being paid by the airport to the port.

(b) The port shall cooperate in every way to facilitate the transfer of the San Diego International Airport to the authority.

(c) In the preparation of the transition plan, priority shall be given to ensuring continuity in the programs, services, and activities of the San Diego International Airport.

(d) The transfer of the San Diego International Airport to the authority shall be completed on December 2, 2002.

(e) The transfer may not in any way impair any contracts with vendors, tenants, employees, or other parties.

170064. (a) From revenues in reserve accounts attributable to airport operations, the port shall loan the authority the sum of one million dollars (\$1,000,000) for the first year of operation of the authority. The authority shall repay this loan with interest on or before January 1, 2008. The interest rate on the loan may be no greater than the discount rate established by the United States Federal Reserve Bank as of December 31, 2001.

(b) The authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. The sources of revenue available to the authority may include, but are not limited to, imposing fees, rents, or other charges for facilities, services, the repayment of bonded indebtedness, and other expenditures consistent with the purposes of the authority.

(c) To the extent practicable, the authority shall endeavor to maximize the revenues generated from enterprises located on the property of the authority.

(d) The authority may receive state and federal grants for purposes of planning, constructing, and operating an airport and for providing ground access to the airport.

170066. (a) The authority is the only agency in the County of San Diego authorized to receive proceeds from state grants for the purposes of planning, constructing, or making other improvements to a civilian airport.

(b) The authority is the only agency authorized in the County of San Diego to receive proceeds from grants from the federal government, including, but not limited to, the Federal Aviation Administration, for purposes of planning, constructing, or making other improvements to a civilian airport.

(c) The authority shall cooperate with all other airports in the county to further the development of a countywide aviation system. To this end, the authority shall facilitate the pass-through of state and federal grants, without deduction for any cost associated with processing that pass-through, to local airport operators, if those grants are for purposes that are consistent with the aviation element of the regional transportation plan or with an adopted program of projects.

170068. The authority may accept the transfer of ownership of other publicly owned airports in the County of San Diego. Any transfer shall include the preparation of a transition plan to ensure the orderly transfer of assets and obligations. In accepting a transfer, the authority may assume no financial obligations other than those associated with the operation of the airport being transferred.

170070. (a) The authority may issue bonds, payable from revenue of any facility or enterprise operated, acquired, or constructed by the authority, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

(b) The authority is a local agency within the meaning of the Revenue Bond Law of 1941. For all the purposes of this article, the term "enterprise," as used in the Revenue Bond Law of 1941, includes the airport system or any or all facilities and all additions and improvements that the authority's governing board authorizes to be acquired or constructed.

(c) Nothing in this section prohibits the authority from availing itself of any procedure provided in this chapter for the issuance of bonds of any type or character for any of the authorized airport facilities. All bond proceedings may be carried on simultaneously or, in the alternative, as the authority may determine.

170072. The authority may levy special benefit assessments consistent with the requirements of Article XIII D of the California Constitution to finance capital improvements, including, but not limited to, special benefit assessments levied pursuant to any of the following:

(a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(b) The Improvement Bond Act of 1915 (Division 15 (commencing with Section 8500) of the Streets and Highways Code).

(c) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(d) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(e) Chapter 1 (commencing with Section 99000) of Part 11 of Division 10 of the Public Utilities Code, if the authority participates in the development of rail access to an airport.

170074. The authority may borrow money in accordance with Article 7 (commencing with Section 53820) of, Article 7.6 (commencing with Section 53850) of, or Article 7.7 (commencing with Section 53859) of, Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

170076. (a) The authority may borrow money in anticipation of the sale of any bonds that have been authorized to be issued, but have not been sold and delivered, and may issue negotiable bond anticipation notes therefor, and may renew the bond anticipation notes from time to time, but the maximum maturity of any bond anticipation notes, including the renewals thereof, may not exceed five years from the date of delivery of the original bond anticipation notes. The bond anticipation notes may be paid from any money of the authority available therefor and not otherwise pledged.

(b) If not previously otherwise paid, the bond anticipation notes shall be paid from the proceeds of the next sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes may not be issued in any amount in excess of the aggregate amount of bonds that the authority has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefore issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds. The bond anticipation notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations that a resolution of the authority authorizing the issuance of bonds may contain.

170078. The authority may bring an action to determine the validity of any of its bonds, equipment trust certificates, warrants, notes, or other evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

170080. All bonds or other evidences of indebtedness issued by the authority under this chapter, and the interest thereon, are free and exempt from all taxation within the state, except for transfer, franchise, inheritance, and estate taxes.

170082. (a) Notwithstanding any other provisions of this division or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the authority of any bonds, bonds with a pledge of revenues, bonds for improvement districts, revenue bonds, equipment trust certificates, notes, or any and all evidences of indebtedness or liability constitute a contract between the authority and the holders of the bonds, equipment trust certificates, notes, or evidences of indebtedness or liability, and the provisions thereof are enforceable against the authority or any or all of its successors or assigns, by

mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction.

(b) Nothing in this division or in any other law shall be held to relieve the authority or the territory included within it from any bonded or other debt or liability contracted by the authority.

(c) Upon dissolution of the authority or upon withdrawal of territory therefrom, that territory formerly included within the authority, or withdrawn therefrom, shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal as if the authority had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of the bonded and other indebtedness and liabilities.

(d) Except as may be otherwise provided in the proceedings for the authorization, issuance, and sale of any revenue bonds, bonds secured by a pledge of revenues, or bonds for improvement districts secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the authority shall be pledged, charged, assigned, and have a lien thereon for the payment of the bonds as long as they are outstanding, regardless of any change in ownership, operation, or control of the revenue-producing improvements, works, facilities, or property and it shall, in any later event or events, be the duty of the successors or assigns to continue to maintain and operate the revenue-producing improvements, works, facilities, or property as long as bonds are outstanding.

170084. The authority shall assume and be bound by the terms and conditions of employment set forth in any collective bargaining agreement between the port and any labor organization affected by the creation of the authority, as well as the duties, obligations, and liabilities arising from, or relating to, labor obligations imposed by state or federal law upon the port. The employees of the port affected by this division shall become employees of the authority and shall suffer no loss of employment or reduction in wages, health and welfare benefits, seniority, retirement benefits or contributions made to retirement plans, or any other term of condition of employment as a result of the enactment of this division.

SEC. 3. Section 4 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Section 1 of Chapter 399 of the Statutes of 1996, is amended to read:

Sec. 4. (a) A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail and water, for the development,

operation, maintenance, control, regulation, and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

(b) Subject to Section 87 and any other provision of applicable law, the district may use the powers and authority granted pursuant to this section to protect, preserve, and enhance all of the following:

- (1) The physical access to the bay.
- (2) The natural resources of the bay, including plant and animal life.
- (3) The quality of water in the bay.

(c) Notwithstanding any other provision of law, the powers and authority specified in this section are to be used only as necessary or incident to the development and operation of a port and shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

(d) This section shall become operative on December 2, 2002.

SEC. 4. Section 5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Section 1.5 of Chapter 399 of the Statutes of 1996, is amended to read:

Sec. 5. (a) The area within the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the district as provided in this act, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of San Diego Bay, included in the district by the board of supervisors of the county as provided in this act. The regulatory, taxing, and police power jurisdiction of the district, as otherwise provided for in this act, shall apply to the above-described area.

(b) In addition to the powers and authority described in subdivision (a), the district shall exercise its land management authority and powers over the following areas:

- (1) The tidelands and submerged lands granted to the district pursuant to this act or any other act of the Legislature.
- (2) Any other lands conveyed to the district by any city or the County of San Diego or acquired by the district in furtherance of the district's powers and purposes as provided in Section 87.

(c) This section shall become operative on December 2, 2002.

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 947

An act relating to school facilities.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Construction of new schools is of the utmost priority and importance, particularly in overcrowded school districts. New facilities will help decrease the number of pupils who must be bussed out of their home districts, ease crowded classrooms, and decrease the number of multitrack, year-round schools.

(b) Belmont Learning Center, located in the City of Los Angeles, has been near completion for two years. Yet, this desperately needed facility, located in a district that busses thousands of pupils out of the area every day, cannot open due to political and environmental controversies. It is the intent of the Legislature to clarify and ameliorate these concerns.

SEC. 2. (a) As used in this section, the following terms have the following meanings:

(1) "Department" means the Department of Toxic Substances Control.

(2) "District" means the Los Angeles Unified School District.

(3) "Remedial investigation and feasibility study" means a remedial investigation, as defined in Section 25322.2 of the Health and Safety Code, and a feasibility study, as defined in Section 25314 of the Health and Safety Code, in accordance with Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(b) On or before January 1, 2003, the district shall do both of the following:

(1) Prepare a remedial investigation and feasibility study for the Belmont Learning Complex site located at the corner of Beaudry Avenue and First Street in the City of Los Angeles.

(2) Submit the study to the department for review.

(c) The district shall obtain the department's determination that the remedial investigation and feasibility study prepared pursuant to subdivision (b) is complete and meets all applicable requirements of

Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code before the district opens the Belmont Learning Complex as a school, or takes any action to use the Belmont Learning Complex for any nonschool purpose.

(d) The district may contract with an entity approved by the department to prepare the remedial investigation and feasibility study required by subdivision (b).

(e) The district shall reimburse the department for any oversight costs incurred by the department pursuant to this section. In determining these costs, the department shall comply with the applicable requirements of Chapter 6.66 (commencing with Section 25269) of Division 20 of the Health and Safety Code. On and after January 2, 2003, the district shall also make the remedial investigation and feasibility study available to the public by posting the study on its Internet Web site.

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 948

An act to add Part 12 (commencing with Section 2695.1) to Division 2 of the Labor Code, relating to sheepherders.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Part 12 (commencing with Section 2695.1) is added to Division 2 of the Labor Code, to read:

PART 12. SHEEPHERDERS

2695.1. (a) In enacting this legislation, it is the intent of the Legislature to codify certain labor protections that should be afforded to sheepherders, as defined. The provisions of this section are in addition to, and are entirely independent from, any other statutory or legal protections, rights, or remedies that are or may be available under this

code or any other state law or regulation to sheepherders either as individuals, employees, or persons.

(b) All terms used in this section and in Section 2695.5 have the meanings assigned to them by this code or any other state law or regulation.

2695.2. (a) (1) For a sheepherder employed on a regularly scheduled 24-hour shift on a seven-day-a-week "on-call" basis, an employer may, as an alternative to paying the minimum wage for all hours worked, instead pay no less than the monthly minimum wage adopted by the Industrial Welfare Commission on April 24, 2001. Any sheepherder who performs nonshepherding, nonagricultural work on any workday shall be fully covered for that workweek by the provisions of any applicable laws or regulations relating to that work.

(2) After July 1, 2002, the amount of the monthly minimum wage permitted under paragraph (1) shall be increased each time that the state minimum wage is increased and shall become effective on the same date as any increase in the state minimum wage. The amount of the increase shall be determined by calculating the percentage increase of the new rate over the previous rate, and then by applying the same percentage increase to the minimum monthly wage rate.

(b) (1) When tools or equipment are required by the employer or are necessary to the performance of a job, the tools and equipment shall be provided and maintained by the employer, except that a sheepherder whose wages are at least two times the minimum wage provided herein, or if paid on a monthly basis, at least two times the monthly minimum wage, may be required to provide and maintain handtools and equipment customarily required by the trade or craft.

(2) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of paragraph (1) upon issuance of a receipt to the sheepherder for such deposit. The deposits shall be made pursuant to Article 2 (commencing with Section 400) of Chapter 3. Alternatively, with the prior written authorization of the sheepherder, an employer may deduct from the sheepherder's last check the cost of any item furnished pursuant to paragraph (1) when the item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the sheepherder upon completion of the job.

(c) No employer of sheepherders shall employ a sheepherder for a work period of more than five hours without a meal period of no less than 30 minutes, except that when a work period of not more than six hours will complete a day's work, the meal period may be waived by the mutual consent of the employer and the sheepherder. An employer may be relieved of this obligation if a meal period of 30 minutes cannot reasonably be provided because no one is available to relieve a

shepherd tending flock alone on that day. Where a meal period of 30 minutes can be provided but not without interruption, a shepherd shall be allowed to complete the meal period during that day.

(d) To the extent practicable, every employer shall authorize and permit all shepherders to take rest periods. The rest period, insofar as is practicable, shall be in the middle of each work period. The authorized rest times shall be based on the total hours worked daily at the rate of 10 minutes net rest time per four hours, or major fraction thereof, of work. However, a rest period need not be authorized for shepherders whose total daily worktime is less than three and one-half hours.

(e) When the nature of the work reasonably permits the use of seats, suitable seats shall be provided for shepherders working on or at a machine.

(f) After January 1, 2003, during times when a shepherd is lodged in mobile housing units where it is feasible to provide lodging that meets the minimum standards established by this section because there is practicable access for mobile housing units, the lodging provided shall include at a minimum all of the following:

(1) Toilets and bathing facilities, which may include portable toilets and portable shower facilities.

(2) Heating.

(3) Inside lighting.

(4) Potable hot and cold water.

(5) Adequate cooking facilities and utensils.

(6) A working refrigerator, which may include a butane or propane gas refrigerator, or for no more than a one-week period during which a nonworking refrigerator is repaired or replaced, a means of refrigerating perishable food items, which may include ice chests, provided that ice is delivered to the shepherd, as needed, to maintain a continuous temperature required to retard spoilage and ensure food safety.

(g) After January 1, 2003, all shepherders shall be provided with all of the following at each worksite:

(1) Regular mail service.

(2) A means of communication through telephone or radio solely for use in a medical emergency affecting the shepherd or for an emergency relating to the herding operation. If the means of communication is provided by telephone, the shepherd may be charged for the actual cost of nonemergency telephone use. Nothing in this subdivision shall preclude an employer from providing additional means of communication to the shepherd which are appropriate because telephones or radios are out of range or otherwise inoperable.

(3) Visitor access to the housing.

(4) Upon request and to the extent practicable, access to transportation to and from the nearest locale where shopping, medical, or cultural facilities and services are available on a weekly basis.

(h) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates or causes to be violated the provisions of this section shall be subject to a civil penalty, as follows:

(1) For the initial violation, fifty dollars (\$50) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(2) For any subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(i) If the application of any provision of any subdivision, sentence, clause, phrase, word, or portion of this legislation is held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected and shall continue to be given full force and effect as if the part held invalid or unconstitutional had not been included.

(j) Every employer of sheepherders shall post a copy of this part in an area frequented by sheepherders where it may be easily read during the workday. Where the location of work or other conditions make posting impractical, every employer shall make a copy of this part available to sheepherders upon request. Copies of this part shall be posted and made available in a language understood by the sheepherder. An employer is deemed to have complied with this subdivision if he or she posts where practical, or makes available upon request where posting is impractical, a copy of the Industrial Welfare Commission Order 14-2001, as adopted on April 14, 2001, relating to sheepherders, provided that the posted material includes a sufficient summary of each of the provisions of this part.

**CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS**

2001-02

REGULAR SESSION

2001 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 11—Relative to Dr. Martin Luther King, Jr. Day.

[Filed with Secretary of State January 29, 2001.]

WHEREAS, Monday, January 15, 2001, marks the 15th National Celebration of the National Holiday for Dr. Martin Luther King, Jr. and his fight for civil and human rights; and

WHEREAS, On Monday, January 15, 2001, Dr. Martin Luther King, Jr. would have been 71 years of age; and

WHEREAS, On April 10, 1970, California became the first state to pass legislation making Dr. King's birthday a school holiday and, subsequently, a statewide holiday; and

WHEREAS, Representative John Conyers (D-Michigan) submitted the first legislation for a national King Holiday, which was signed into law by President Ronald Wilson Reagan, on November 2, 1983; and

WHEREAS, January 20, 1986, marked the first observance of Dr. Martin Luther King, Jr. Day; and

WHEREAS, Dr. King and the Civil Rights Movement helped change public policy from segregation to integration, resulting in the repeal of the post-Reconstruction era state laws mandating racial segregation in the South known as the "Black Codes," in the passage of laws aimed at ending economic and social segregation in the North, and in the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and other antidiscrimination, full citizen participation laws; and

WHEREAS, Dr. King and the Civil Rights Movement specifically changed public policy from closed access to open access in education, including higher education, employment and labor laws, transportation policy, election laws, and other aspects of public policy, particularly those relating to human rights; and

WHEREAS, These public policy changes at the national level influenced many changes in California public policy manifest in the Unruh Civil Rights Act and the Rumford Fair Housing Act, in open enrollment and access to higher education, specifically with respect to the California State University and the University of California, and in employment and labor laws, transportation policy, election laws, and other aspects of public policy; and

WHEREAS, The unfinished business of Dr. King and the Civil Rights Movement was and is the plight of the poor, the fight against war and for worldwide peace, and the struggle for a fair, equitable, and sensible economic system; and

WHEREAS, Dr. King and the Civil Rights Movement noted that a majority of Americans lived below the poverty line, and that the huge

income gaps between rich and poor, called for “changes in the structure of our society”; and

WHEREAS, Dr. King, in the last months of his life, began organizing a Poor People’s Campaign to, among other things, assemble “a multiracial army of the poor that would descend on Washington—engaging in nonviolent civil disobedience at the Capitol, if need be—until Congress enacted a poor people’s bill of rights”; and

WHEREAS, All of the aforementioned concerns and more continue to be the quest of civil and human rights organizations in the great State of California, across America, and throughout the world; and

WHEREAS, Dr. Martin Luther King, Jr. fought to change public policy from the “self-inflicted wound of segregation to the pluralistic diverse democracy” we continue to construct today; and

WHEREAS, Dr. Martin Luther King, Jr. and the Civil Rights Movement serve as a model for principled leadership and forward thinking, bipartisan public policy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Monday, January 15, 2001, be observed as the official memorial of Dr. Martin Luther King, Jr.’s birth and his work in the Civil Rights Movement; and be it further

Resolved, That this day, Dr. Martin Luther King, Jr. and the Civil Rights Movement be commemorated for their help in changing public policy from segregation to integration, for the betterment of this, the great State of California and these United States of America.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 13—Relative to emergency services.

[Filed with Secretary of State February 9, 2001.]

WHEREAS, On Tuesday, January 16, 2001, a truck crashed into the south side of the State Capitol building, resulting in the loss of a life and a fire that damaged the building; and

WHEREAS, Various government officials responded quickly and effectively to prevent further injuries and damage, investigate the cause of the crash, and remove the remaining debris; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, the officers and employees of the Legislature commend the following government agencies and departments for their services in response to the tragedy and fire at the State Capitol building on Tuesday, January 16, 2001:

California Highway Patrol, the Federal Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation, the Sacramento County Sheriff's Department, Sacramento Police Department, the Department of Forestry and Fire Protection, Department of Motor Vehicles, the Department of General Services, the Sacramento County Fire Department, the Sacramento City Fire Department, the Sacramento County Coroner's Office and the staff of the Assembly and Senate.

RESOLUTION CHAPTER 3

Assembly Concurrent Resolution No. 14—Relative to Girls and Women in Sports Day.

[Filed with Secretary of State February 9, 2001.]

WHEREAS, By an act of the United States Congress, February 4, 1987 was proclaimed as the first national Girls and Women in Sports Day in memory of volleyball legend Flo Hayman, whose tragic death cut short a lifetime of determined effort for equality in sports; and

WHEREAS, Girls and women throughout the ages have participated in a variety of sports and games in schools and community and club programs; and

WHEREAS, Many female athletes have distinguished themselves and as representatives of California and the nation in the Olympic games; and

WHEREAS, Participation in sports is acknowledged as a positive force in developing and promoting the physical, mental, moral, social, and emotional well-being of individuals; and

WHEREAS, The need to encourage women of all ages to compete and contribute to sports at all levels of competition and to prepare the next generation of female sports leaders as we enter the new millennium; and

WHEREAS, The theme of this year's national celebration, "No Stopping Us Now," supports the accomplishments and positive influence of sports participation and the continuing struggle for equality and access; and

WHEREAS, The combined efforts of Girls Incorporated, the National Association for Girls and Women in Sport, the Women's Sports Foundation, the Girl Scouts of America, and the YWCA have served to bring needed information and important recognition of this day; and

WHEREAS, The continued support of the Girls and Women in Sports mission statement by the California Association for Health, Physical Education, Recreation, and Dance, the California Interscholastic Federation, and the National Federation of State High School

Associations have furthered the dreams and inspired today's female athletes; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes female athletes, coaches, officials, and sports administrators for their important contribution in promoting the value of sports in the achievement of full human potential and hereby proclaims February 7, 2001, as California Girls and Women in Sports Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 15—Relative to Black History Month.

[Filed with Secretary of State February 22, 2001.]

WHEREAS, The history of African-Americans here in the United States, as well as throughout the ages, is indeed unique and vibrant, and it is appropriate to celebrate this history during the month of February 2001, which has been proclaimed as Black History Month; and

WHEREAS, The history of the United States is rich with inspirational stories of great men and noble women whose actions, words, and achievements have united Americans and contributed to the success and prosperity of the United States; and

WHEREAS, Among those Americans who have enriched our society are the members of the African-American community—individuals who have been steadfast in their commitment to promoting brotherhood, equality, and justice for all; and

WHEREAS, From the earliest days of the United States, the course of its history has been greatly influenced by Black heroes and pioneers in many diverse areas, from science, medicine, business, and education to government, industry, and social leadership; and

WHEREAS, This year we celebrate Black History Month in a new century. An old African proverb states, "Only when you have crossed the river, can you say the crocodile has a lump on his snout." Therefore, as we move forward in the 21st Century, we believe it is time we began to cross the river. The river in this case will be historical contributions of Africans and African-Americans to our society. Quickly, we will try to bring to light historical accomplishments and facts of Africans and African-Americans across the globe; and

WHEREAS, Scholars and scientists generally accept that Africa is the continent where mankind first saw the light of day. Scientists believe that man, therefore, began in Africa and migrated out to populate the other continents; and

WHEREAS, One of the first civilizations in the history of the world was Egypt, an empire that rose about six thousand years ago along the Nile River. The ancient Egyptians had developed a very complex religious system, called Mysteries, which was also the first system of salvation. In addition, it is understood that Egyptians by their study of astronomy discovered the solar year and were the first to divide it into 12 parts and were the architects of the great pyramids of Egypt; and

WHEREAS, During the first millennium, the Catholic Church had three popes who were either from Africa or of African descent: Saint Victor I (189–99), Saint Miltiades (311–14), and Saint Gelasius I (492–96); and

WHEREAS, The slave trade was a tragic episode in African history and began before August 1619 when the first slaves arrived in Jamestown, Virginia. During the course of the slave trade, an estimated 50 million African men, women, and children were lost to their native continent, though only about 15 million arrived safely to a new home. The others lost their lives on African soil or along the Guinea coast, or finally in holds on the ships during the dreaded Middle Passage across the Atlantic Ocean; and

WHEREAS, In spite of the African slave trade, many Africans and African-Americans continued to move forward in society; during the Reconstruction period, two African-Americans served in the United States Senate and 14 sat in the House of Representatives; and

WHEREAS, The first American to shed blood in the revolution that freed America from British rule was Crispus Attucks (March 5, 1770, Boston Massacre), an African-American seaman and slave. African-Americans also fought in wars such as the battles of Lexington and Concord in April 1775, Ticonderoga, White Plains, Bennington, Brandywine, Saratoga, Savannah, Yorktown, Bunker Hill, the Revolutionary War, the battle of Rhode Island on August 29, 1775, the battle of New Orleans, the Civil War, the Spanish-American War, World Wars I and II, Korea, and Vietnam; and

WHEREAS, Africans and African-Americans have also been great inventors, inventing such things as the air-conditioning unit, almanac, automatic gear, blood plasma bag, cellular phone, clothes, doorknob, doorstop, electric lamp bulb, elevator, fire escape ladder, fire extinguisher, fountain pen, gas mask, golf tee, guitar, horseshoe, lantern, lawnmower, lawn sprinkler, lock lubricating cup, motor, refrigerator, riding saddles, spark plug, stethoscope, stove, phone transmitter, thermostat control, traffic light, and typewriter; and

WHEREAS, A number of these brave and accomplished individuals, such as Booker T. Washington, George Washington Carver, Matthew Hansen, Daniel Hale Williams, Dr. Charles Drew, Jackie Robinson, Jesse Owens, Curt Flood, Medgar Evers, and, of course, Dr. Martin Luther King, Jr., are noted prominently in the history books of students nationwide, thus enabling them to learn about the important and lasting contributions of these individuals; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature takes great pleasure in recognizing February 2001 as Black History Month, urges all citizens to join in celebrating the accomplishments of African-Americans during Black History Month, and encourages the people of California to recognize the many talents, achievements, and contributions that African-Americans make to their communities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 11—Relative to Library Lovers Month.

[Filed with Secretary of State February 22, 2001.]

WHEREAS, Libraries enable individuals to make informed decisions about their self-governance by promoting unrestricted access to information and by serving as community centers for lifelong learning; and

WHEREAS, In a world undergoing constant change, libraries provide enduring connections to the past and future of our communities, nations, and civilizations; and

WHEREAS, The expansion of electronic networks that link libraries and their resources makes possible better and more easily accessible information for library users around the world; and

WHEREAS, Libraries provide entry to important research about health, economics, housing, the environment, and countless other areas to support better living conditions and to help people lead longer, more productive, and fulfilling lives; and

WHEREAS, Libraries support a competitive workforce with basic literacy programs, computers, and other resources to help children and adults learn to find, evaluate, and use information they need for their jobs, health, education, and other needs; and

WHEREAS, Many libraries offer story hours for preschoolers and summer reading programs to encourage children to begin a habit of reading that will serve to benefit their personal and professional lives; and

WHEREAS, 16,500,000 Californians have library cards; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California proclaims the month of February 2001 as Library Lovers Month, and urges all Californians to visit a library and thank a librarian for making this unique and wonderful institution possible; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Friends & Foundations of California Libraries.

RESOLUTION CHAPTER 6

Assembly Concurrent Resolution No. 17—Relative to a Day of Remembrance.

[Filed with Secretary of State February 27, 2001.]

WHEREAS, On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, pursuant to which 120,000 Americans and resident aliens of Japanese ancestry were incarcerated in internment camps during World War II; and

WHEREAS, Executive Order 9066 deferred the American dream for 120,000 Americans and resident aliens of Japanese ancestry by inflicting a great human cost of abandoned homes, businesses, careers, and professional advancements, and disruption to family life; and

WHEREAS, Despite their families being incarcerated behind barbed wire in the United States, approximately 33,000 veterans of Japanese ancestry fought bravely for our country during World War II, serving in the 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion; and

WHEREAS, The 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion heroically suffered nearly 10,000 casualties and are honored as being among World War II's most decorated combat teams, receiving seven Presidential Distinguished Unit Citations, 52 Distinguished Service Crosses, 588 Silver Stars, 5,200 Bronze Stars, and 9,486 Purple Hearts; and

WHEREAS, On June 21, 2000, President William Jefferson Clinton elevated 20 Japanese Americans who served in the 100th Battalion and the 442nd Regimental Combat Team and were among 52 individuals

who received the nation's second highest award—the Distinguished Service Cross—to receive the nation's highest military honor—the Medal of Honor—bringing the total number of recipients who so received the Medal of Honor to 21; and

WHEREAS, Nearly 6,000 veterans of Japanese ancestry served with the Military Intelligence Service and have been credited for shortening the war by two years by translating enemy battle plans, defense maps, tactical orders, intercepted messages and diaries, and interrogating enemy prisoners; and

WHEREAS, Nearly 40 years subsequent to the United States Supreme Court decisions upholding the convictions of Fred Korematsu, Min Yasui, and Gordon Hirabayashi for violations of curfew and Executive Order 9066, it was discovered that the United States War Department and Department of Justice officials altered and destroyed evidence regarding the loyalty of Americans and resident aliens of Japanese ancestry and withheld information from the United States Supreme Court; and

WHEREAS, Dale Minami, Peggy Nagae, Rod Kawakami, and many attorneys and interns contributed innumerable hours to win a reversal in 1983 of the original convictions of Korematsu, Yasui, and Hirabayashi by filing a petition for writ of error coram nobis on the grounds that fundamental errors and injustice occurred; and

WHEREAS, On August 10, 1988, President Ronald Reagan signed into law the Civil Liberties Act of 1988, finding that Executive Order 9066 was not justified by military necessity and, hence, was caused by racial prejudice, war hysteria, and a failure of political leadership; and

WHEREAS, February 19, 2001, marks 59 years since the signing of Executive Order 9066, a policy of grave injustice against American citizens and resident aliens of Japanese ancestry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares February 19, 2001, as a Day of Remembrance in this state to increase public awareness of the events surrounding the internment of Americans of Japanese ancestry during World War II; and be it further

Resolved, That the Legislature encourages the annual observance of this day in subsequent years so that California's youth may learn from our history; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Superintendent of Public Instruction, the State Library, and the State Archives.

RESOLUTION CHAPTER 7

Senate Concurrent Resolution No. 2—Relative to College Awareness Month.

[Filed with Secretary of State February 27, 2001.]

WHEREAS, The California Education Round Table and its Intersegmental Coordinating Committee are sponsoring February 2001 as “College Awareness Month”; and

WHEREAS, California needs a college-educated workforce in order to maintain a strong and vibrant economy, a cohesive society, and an effective democracy; and

WHEREAS, Pupils have to learn the skills, competencies, and behaviors that will enable them to have a variety of choices after high school graduation, including entering and succeeding in college; and

WHEREAS, California is disadvantaged when pupils leave high school before they graduate, a situation that happens too frequently, or graduate without the skills that are necessary to participate productively in the state’s future; and

WHEREAS, Parents have important responsibilities in encouraging their daughters and sons to master the skills in elementary and secondary school that will prepare them to pursue a college education; and

WHEREAS, California’s educational community will be conducting a statewide campaign during the month of February to provide parents with information in the appropriate language that will assist them in serving as academic advisers and financial planners for their daughters and sons so that they can graduate from college; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby supports the actions of the California Education Round Table by proclaiming February 2001 as “College Awareness Month”; and be it further

Resolved, That the Legislature urges the residents of California to encourage elementary and secondary school pupils to succeed in their academic endeavors so that they may earn a college education and contribute to the economic, social, and political future of this state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor, the Superintendent of Public Instruction, and the California Education Round Table.

RESOLUTION CHAPTER 8

Senate Concurrent Resolution No. 7—Relative to POW Recognition Day.

[Filed with Secretary of State March 9, 2001.]

WHEREAS, Men and women have long answered our nation's call to duty and undertaken their mission as members of the United States Armed Forces; and

WHEREAS, Our military personnel have gone to battle in countries far and near to defend the ramparts of liberty and resist the agents of tyranny; and

WHEREAS, Hostile forces throughout the world continue to subvert the political and economic freedom for which American soldiers have sacrificed their lives; and

WHEREAS, Since World War I, there have been some 142,257 Americans captured and interned under deplorable conditions; and

WHEREAS, Most of our military personnel have returned home as heroes and proud veterans, but sadly another 92,457 other Americans were lost in combat, and their remains never recovered; and

WHEREAS, On April 9, 1865, General Robert E. Lee surrendered to General Ulysses S. Grant in Appomattox Court House, Virginia; and

WHEREAS, General King, the American Army General who surrendered the largest number of military fighting personnel ever surrendered at one time to an enemy force, was a student of history who chose April 9 of 1942, to surrender; and

WHEREAS, The surrender of American and Filipino troops by General King on April 9, 1942, on the Bataan Peninsula led to the infamous Bataan Death March; and

WHEREAS, April 9 was chosen by Congress to be the national day for honoring prisoners of war; and

WHEREAS, Each year, citizens throughout America join in observances to honor and recognize former American prisoners of war, and to remember those individuals still unaccounted for, so that we may rededicate ourselves to finding a resolution to their status that will allow their families to have the peace they deserve; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates April 9, 2001, as POW Recognition Day in California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 24—Relative to Read Across America.

[Filed with Secretary of State March 12, 2001.]

WHEREAS, Members of the California Legislature have learned of the Read Across America campaign created by the National Education Association with the full support of the California Teachers Association to motivate children to read; and

WHEREAS, The Members of the California Legislature stand firmly committed to promoting reading as the catalyst for our pupils' future academic success, their preparation for California's and America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, The Members of the California Legislature believe in the importance of joining teachers in their efforts to enhance community involvement in the education of our youth; and

WHEREAS, The Members believe that education investment is the key to our state's well-being and long-term quality of life; and

WHEREAS, The National Education Association and the California Teachers Association Read Across America is a national celebration of Dr. Seuss' birthday on March 2 that is designed to promote reading and adult involvement in the education of our state's and nation's pupils; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature hereby proclaims March 2, 2001, as Read Across California Day; and be it further

Resolved, That the California Legislature calls on the citizens of California to ensure that every child is in a safe place reading together with a caring adult on the evening of March 2, 2001; and be it further

Resolved, That the California Legislature enthusiastically endorses Read Across America and recommits our state to supporting programs and activities designed to make the children in our state and our nation the best readers in the world; and be it further

Resolved, That the California Legislature commends the National Education Association and the California Teachers Association for their efforts on behalf of Read Across America; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 33—Relative to Japan Peace Treaty Day.

[Filed with Secretary of State March 12, 2001.]

WHEREAS, The date of September 8, 2001, marks the 50th anniversary of the Treaty of Peace with Japan signed by 49 nations in the War Memorial Opera House in San Francisco; and

WHEREAS, In the first nationally televised event from the west coast, the Treaty of Peace restored Japan to the family of sovereign nations; and

WHEREAS, The Treaty of Peace with Japan led to a new generation of bilateral leadership with the postwar wisdom and vision to make investments that transformed California into the Golden State and that transformed Japan into a free democracy, an indispensable United States ally, and the world's second largest economy; and

WHEREAS, The United States-Japan-affiliated community is engaged in worthy and noble efforts to commemorate the actions of nations 50 years ago that led to California's prosperity and made it the "American Gateway to the Pacific." This commemoration will also explore the fundamentals of United States-Japan relations and set the stage for the next 50 years of bilateral progress; and

WHEREAS, A vitally important part of this memorial project shall be to help ensure that future generations comprehend their responsibility to respect humanity and preserve world peace; and

WHEREAS, Californians have every confidence that the extraordinary bonds between Japan and the United States will only grow stronger in the years, the decades, and the new century to come; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims the day of September 8, 2001, as Japan Peace Treaty Day and urges all Californians to observe this day of remembrance for the historic actions taken in San Francisco on September 8, 1951; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 16—Relative to Spay Day USA 2001.

[Filed with Secretary of State March 19, 2001.]

WHEREAS, Between six and 10 million dogs and cats are euthanized in the United States each year; and

WHEREAS, In most instances these are young, attractive, healthy, friendly, and playful animals that are euthanized simply because there are not enough good homes for them; and

WHEREAS, An additional unknown number of animals die each year due to abandonment, neglect, abuse, starvation, or cruelty because they are unwanted; and

WHEREAS, The spaying and neutering of dogs and cats directly addresses these problems by reducing the number of unwanted animals; and

WHEREAS, Californians can contribute to this effort by spaying and neutering their own pets and by supporting programs in their communities that offer spay and neuter services; and

WHEREAS, Veterinarians, humane societies, and national and local animal protection organizations will join together to advocate the spaying and neutering of dogs and cats on "Spay Day USA 2001," now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares February 27, 2001, to be Spay Day USA 2001 and that Californians are requested to observe the day by having their dogs or cats spayed or neutered or by contributing to those organizations that provide spay and neuter services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 3—Relative to a friendship state relationship with Punjab State, India.

[Filed with Secretary of State March 20, 2001.]

WHEREAS, India is one of the world's largest and most vibrant democratic market and is recognized globally as the market of the future; and

WHEREAS, Punjab State's average growth rate of 10 percent is among the highest in India, clearly reflecting the progressive economy of the state. This economy is characterized by agricultural and small- and

medium-scale industries, and the highest per capita income in the nation; and

WHEREAS, Punjab State and the State of California share many agricultural similarities. Punjab State was the first to translate agricultural technology in the “Green Revolution,” which stressed the introduction of modern farming methods, new seeds and fertilizers, and irrigation. The state records the highest growth rate in food production in India; and

WHEREAS, Punjab State leads in the manufacture of machine and hand tools, printing and paper cutting machinery, and auto parts and electrical switch gear. The state also provides more than 75 percent of the country’s requirement for bicycles, sewing machines, hosiery, and sporting goods; and

WHEREAS, Punjab State leads the nation in infrastructure with its developed and extensive network of about 30,000 miles of roadways and an efficient railway system; and

WHEREAS, Much like California, Punjab State values quality education and has four state universities and more than 200 professional, medical, and engineering colleges and technical institutions; and

WHEREAS, A friendship state relationship would promote mutual trade and commerce, and increase the potential for educational, environmental, and cultural relations between Punjab State and the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California, on behalf of the people of California, extends to the people of the Punjab State, India, an invitation to join with California in a friendship state relationship in order to encourage and facilitate mutually beneficial economic, educational, environmental, and cultural exchanges and to lead to a more indelible and lasting relationship between Californians and the people of the Punjab State, India; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Consul General of India, the Indo-American Trade and Commerce Council, the Government of Punjab State, India, the Governor of California, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 13

Senate Concurrent Resolution No. 4—Relative to a sister state relationship with Gujarat State, India.

WHEREAS, India is one of the world's largest and most vibrant democratic market and is recognized globally as the market of the future; and

WHEREAS, Gujarat State has emerged as a leading industrialized state with the largest population among the other regional states in India, offering a highly trained, peaceful, and productive workforce, an excellent road network linking all regions of the state, an efficient rail network connecting all important centers in the state, the highest number of airports (10) in the state, and three stock exchanges (the largest number in any one state); and

WHEREAS, Gujarat State was the first state to establish an International Trade Promotion Council at the state level for promotion of exports and has formulated and announced a comprehensive Industrial Policy titled "Gujarat 2000 AD & Beyond" that sets futuristic directions for development, such as increasing overall flow of investment in the industrial sector, creating large scale employment opportunities, accelerating the pace of development of infrastructure and human resources, achieving sustainable development, and encouraging entrepreneurship. Further, the state government has also announced sectoral policies in the following areas: infotech, tourism, power, ports, and roads; and

WHEREAS, Gujarat State is the largest producer of cotton and groundnut and stands second in production of tobacco in the country; the state is a major producer of inorganic chemicals and boasts the largest petrochemical complex in the country; the state is also richly endowed with essential mineral resources and ranks fourth in overall mining of minerals in India; and

WHEREAS, Gujarat State has the longest coastline (1,600 kilometers) among all states in India with two gulfs and dotted with 41 ports (1 major, 11 intermediate, and 29 minor), making it a natural gateway to international markets. The marine resources are an untapped source of wealth in the Gujarat State; the state produces over 70 percent of the salt in India and accounts for 30 percent of India's potential fish and prawn culture; and

WHEREAS, Much like the State of California, Gujarat State is a prestigious center of higher learning, containing the highest number of quality educational, professional, and vocational training institutions in India; and

WHEREAS, Both California and Gujarat State have ethnically diverse populations and are concerned with peaceful coexistence of the many cultures within their borders; and

WHEREAS, Gujarat State is inextricably linked with the life of the father of the nation, Mahatma Gandhi, as he was born there and spent his early years there; and

WHEREAS, A sister state relationship would promote mutual trade and commerce, and increase the potential for educational, environmental, and cultural relations between Gujarat State and the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California, on behalf of the people of California, extends to the people of the Gujarat State an invitation to join with California in a sister state relationship in order to encourage and facilitate mutually beneficial economic, educational, environmental, and cultural exchanges and to lead to a more indelible and lasting relationship between Californians and the citizens of the Gujarat State of India; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Consul General of India, the Indo-American Trade and Commerce Council, the Government of Gujarat State, India, to the Governor of California, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 14

Senate Concurrent Resolution No. 8—Relative to Arts Education Month.

[Filed with Secretary of State March 20, 2001.]

WHEREAS, Arts education, which includes dance, literature, music, theatre, and visual arts, is an essential part of the basic education necessary to provide balanced learning for all pupils in kindergarten and grades 1 to 12, inclusive; and

WHEREAS, Arts education is necessary to develop the full potential of pupils' minds; and

WHEREAS, Arts educators recognize that a program of arts education is defined as a comprehensive, balanced, sequential, in-school program of instruction in the arts, taught by qualified teachers, designed to provide pupils of all ages with skills and knowledge in the arts in accordance with high national, state, and local standards; and

WHEREAS, The adoption of arts education standards to guide the development and implementation of arts instruction and activities, facilitates a well-planned arts education program and enhances a pupil's opportunity to develop his or her initiative, creative ability, self-expression, self-evaluation, thinking skills, discipline, appreciation of beauty, and cross-cultural understanding; and

WHEREAS, National standards have been adopted for the visual and performing arts; and

WHEREAS, For 20 years the State of California has recognized the adopted visual and performing arts framework as the definition of arts education; and

WHEREAS, The State of California has adopted state standards for the visual and performing arts; and

WHEREAS, The arts education associations of the California Dance Educators Association, the California Music Educators Association, the California Educational Theatre Association, the California Arts Education Association, and the California Humanities Association each contribute to the betterment of arts education together and each in their own subject area; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California proclaim the month of March 2001 as Arts Education Month, as a symbol of their support to the value that arts education brings to the pupils' education and to the economic development within each community of this state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to each school district in the State of California and to the arts education associations for their individual action in support of March 2001 as Arts Education Month.

RESOLUTION CHAPTER 15

Senate Concurrent Resolution No. 5—Relative to California Fitness Month.

[Filed with Secretary of State March 27, 2001.]

WHEREAS, Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart and muscles, burn calories, and improve cholesterol levels; and

WHEREAS, Exercise and fitness activities are excellent ways to relieve stress; lower the risk of heart disease, hypertension, and diabetes; prevent bone loss; and decrease the risk of some cancers; and

WHEREAS, A person's fitness level has a dramatic effect on the body's ability to produce energy and to reduce fat; and

WHEREAS, A fit person burns a higher percentage of fat not only during activity, but also at rest, fit people have a higher proportion of muscle tissue, which burns more calories than fat, and those with more

muscle mass can eat more calories and still maintain a healthy weight; and

WHEREAS, To lose weight and keep it off, one should do an enjoyable, moderate-intensity aerobic activity for 30 to 60 minutes, three to five times a week; and

WHEREAS, A person should also do muscle-strengthening exercises two or three times a week, and should concentrate on maintaining a balanced diet; and

WHEREAS, Most popular diet programs cannot produce long-lasting weight reduction results without exercise; and

WHEREAS, There is no age limit for physical activity. Among the elderly, exercise provides cardiovascular, respiratory, neuromuscular, metabolic, and mental health benefits; and

WHEREAS, Fitness activities have been shown to sharpen mental ability in all people, and to retard the aging process; and

WHEREAS, Maximizing one's energy level, increasing muscle mass, and reducing body fat increases one's chances of living a longer, healthier life; and

WHEREAS, More than 60 percent of American adults do not get the recommended amount of physical activity, and 25 percent of American adults are not active; and

WHEREAS, Nearly all American youths from 12 to 21 years of age are not vigorously active on a regular basis; and

WHEREAS, The State Department of Education reports that a majority of California's children are not physically fit; and

WHEREAS, The Legislature seeks to advance the physical fitness of all Californians by educating them about the benefits of exercise and a balanced diet; and

WHEREAS, The Legislature will increase public awareness about the benefits of exercise and physical fitness by encouraging members to host events in their districts that stimulate physical fitness and increase participation by Californians in activities that promote physical health and benefit both mental and physical well-being; and

WHEREAS, The Legislature encourages its members, as well as organizations, businesses, and individuals to sponsor and attend physical fitness events that are informative, fun, and result in a number of Californians becoming physically fit; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the month of April 2001 as California Fitness Month, and encourages all Californians to enrich their lives through proper diet and exercise; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 16

Senate Concurrent Resolution No. 6—Relative to physical education.

[Filed with Secretary of State March 27, 2001.]

WHEREAS, Physical education is essential to the development of growing children; and

WHEREAS, Physical education helps improve the overall health of children by improving their cardiovascular endurance, muscular strength and power, and flexibility, and by enhancing weight regulation, bone development, posture, skillful moving, active lifestyle habits, and constructive use of leisure time; and

WHEREAS, Physical education helps improve the self-esteem, interpersonal relationships, responsible behavior, and independence of children; and

WHEREAS, Children who participate in high-quality daily physical education programs tend to be more healthy and physically fit; and

WHEREAS, Physically fit adults have significantly reduced risk factors for heart attacks and strokes; and

WHEREAS, The Surgeon General, in “Objectives for the Nation,” recommends increasing the number of mandated physical education programs that focus on health-related physical fitness; and

WHEREAS, The Secretary for Education, in “First Lessons - A Report on Elementary Education in America,” recognized that elementary schools have a special mandate to provide elementary school children with the knowledge, habits, and attitudes that will equip the children for a fit and healthy life; and

WHEREAS, A high-quality daily physical education program for all children in kindergarten and grades 1 to 12, inclusive, is an essential part of a comprehensive education; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims May 1 to May 7, 2001, as Physical Education and Sports Week and May as Physical Fitness and Sports Month in this state, and urges residents statewide to learn more about the relationship between physical and mental health and take appropriate steps to incorporate quality physical activities into their lives and those of their children; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 17

Senate Concurrent Resolution No. 16—Relative to California Adult Education Week.

[Filed with Secretary of State March 27, 2001.]

WHEREAS, Approximately 377 California adult schools serve the changing economic and cultural needs of a vigorous, expanding community; and

WHEREAS, Adult schools serve approximately 1,600,000 California students; and

WHEREAS, Adult schools provide instruction to those in the community who need English as a second language and citizenship courses; and

WHEREAS, Adult schools are a primary community resource for the teaching and instruction of adult family literacy; and

WHEREAS, Adult schools provide a way for adults to complete high school studies in their own time and pace; and

WHEREAS, Adult schools provide programs especially designed for older adult and handicapped populations; and

WHEREAS, Adult schools provide vocational and job training for adults seeking career changes or enhancements; and

WHEREAS, Adult schools provide instruction for parents, ranging from prebirth classes through a wide spectrum of parent education courses; and

WHEREAS, Adult schools provide education services as called for by the Federal Workforce Investment Act of 1998, and for participants of the CalWORKS program; and

WHEREAS, Adult schools have responded to provide education for the Immigration and Reform and Control Act, and Greater Avenues for Independence (GAIN) participants; and

WHEREAS, Adult schools provide for the unique needs of individuals in a diverse population; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims the week of March 26, 2001, to April 1, 2001, as California Adult Education Week, in honor of the many outstanding services and contributions provided by California adult schools; and be it further

Resolved, That the administrators, teachers, classified staff, and students of California's adult schools be commended for their support of, and contributions to, quality education in the state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 18

Senate Joint Resolution No. 6—Relative to multifamily rental housing.

[Filed with Secretary of State March 27, 2001.]

WHEREAS, California is in the midst of a housing shortage, causing housing prices to rise out of the reach of most low- and middle-income families, and forcing many low- and moderate-income workers, including teachers, police officers, firefighters, construction workers, public sector employees, retail and service sector employees, and other low- and moderate-income workers to seek housing up to two or three commute hours away from employment centers, thereby increasing traffic congestion, air pollution, and reducing available family time, economic productivity, and quality of life; and

WHEREAS, There has been a continuous, appreciable, and verifiable decline in the number of building permits issued for multifamily housing since 1986, with the percentage of multifamily housing permits of the total number of housing construction permits granted in California dropping from 148,085 or 47 percent of total residential permits issued in 1986, to 36,000 or 25 percent of total residential permits issued in the year 2000, and the percentage of multifamily building permits has remained below 20 percent of the total number of housing permits issued for most of the 1990's; and

WHEREAS, There also has been a continuous, appreciable, and verifiable decline in the construction of multifamily units on a nationwide basis, with the percentage of multifamily housing permits of the total number of housing permits dropping from 656,000 or 38 percent of total residential permits issued in 1985, to 324,000 or 21 percent of total residential permits issued in the year 2000; and

WHEREAS, In California and most parts of the nation, most multifamily units currently under construction are for use as rental housing rather than owner-occupied housing; and

WHEREAS, Despite the rebound of the California economy over the last several years, increasing demand for rental housing, and accelerating rents, these market factors have not resulted in a

significantly increased level of private investment in multifamily housing, when compared to historical patterns of multifamily construction during economic upswings both within the state, as well as nationally, during the decades prior to 1986; and

WHEREAS, Although there are several factors that contribute to the inadequate pace of multifamily rental housing construction, most economists agree that provisions of the Tax Reform Act of 1986 that lengthened the number of years necessary to fully depreciate private investments in rental real property from 19 to 27.5 years and that restricted the ability of private investors to deduct passive losses resulting from investments in rental real property have significantly reduced the incentive to invest in and own multifamily rental housing; and

WHEREAS, A beneficial outcome of the Tax Reform Act of 1986 was the creation of the federal Low-Income Housing Tax Credit Program, that has enabled the construction of hundreds of thousands of rental housing units affordable to lower income households, but that by itself has been unable to satisfy the overall demand for new rental housing; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully requests the President and Congress of the United States to review federal tax law applicable to rental housing, including depreciation schedules and passive loss provisions, as they existed prior to the Tax Reform Act of 1986, and to enact new tax benefits that complement the Low- Income Housing Tax Credit Program and provide additional incentives to invest in multifamily rental housing, so that the significant shortage of multifamily rental housing both in California and throughout the United States may be addressed through increased private investment; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 19

Senate Joint Resolution No. 10—Relative to special education funding.

[Filed with Secretary of State March 27, 2001.]

WHEREAS, The Congress enacted the Education for All Handicapped Children Act of 1975 (P.L. 94-142), now known as the Individuals with Disabilities Education Act (IDEA), to ensure that all children with disabilities in the United States have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs, to ensure that the rights of children with disabilities and their parents or guardians are protected, to assist states and localities to provide for the education of all children with disabilities, and to assess and ensure the effectiveness of efforts to educate children with disabilities; and

WHEREAS, Since 1975, federal law has authorized appropriation levels for grants to states under the IDEA at 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States; and

WHEREAS, Congress continued the 40-percent funding authority in Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997; and

WHEREAS, Congress has never appropriated funds equivalent to the authorized level, has never exceeded the 15-percent level, and has usually only appropriated funding at about the 8-percent level; and

WHEREAS, The federal budget for fiscal year 2001, signed by the President on December 22, 2000, made an additional \$1.4 billion available for special education, and this increased appropriation, when combined with the revised allocation formula in Public Law 105-17 will make the federal government more able to fund special education, and at higher levels than previously attained; and

WHEREAS, The California Master Plan for Special Education was approved for statewide implementation in 1980 on the basis of the anticipated federal commitment to fund special education programs at the federally authorized level; and

WHEREAS, The Governor's Budget for the 2001-02 fiscal year proposes \$2.6 billion in General Fund support for the state's share of funding for special education programs; and

WHEREAS, California anticipates receiving over \$650 million, including a \$140 million increase in federal special education funds under Part B of IDEA for the 2001-02 school year, even though the federally authorized level of funding, if fully reimbursed, would provide an additional amount of over \$1 billion annually to California; and

WHEREAS, Local educational agencies in California are required to pay for the underfunded federal mandates for special education programs, at a statewide total cost exceeding \$1 billion annually; and

WHEREAS, The decision of the Supreme Court of the United States in the case of Cedar Rapids Community Sch. Dist. v. Garret F. (1999) 143 L.Ed.2d 154, has had the effect of creating an additional mandate for

providing specialized health care, and will significantly increase the costs associated with providing special education and related services; and

WHEREAS, Whether or not California participates in the IDEA grant program, the California schools are required to meet the requirements of Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701) and its implementing regulations (34 C.F.R. 104), which prohibit recipients of federal financial assistance, including educational institutions, from discriminating on the basis of disability, yet no federal funds are available under that act for state grants; and

WHEREAS, California is committed to providing a free and appropriate public education and related services to children and youth with disabilities, in order to meet their unique needs; and

WHEREAS, Since 1997, the state has used federal special education funding increases to provide equity adjustments to school agencies consistent with the new special education funding model provided in Assembly Bill 602 of the 1997–98 Regular Session (Chapter 854 of the Statutes of 1997); and

WHEREAS, California is committed to the continued use of increases in federal funding for special education to recognize special education funding commitments made to local education agencies; and

WHEREAS, The California Legislature is extremely concerned that, since 1978, Congress has not provided states with the full amount of financial assistance necessary to achieve its goal of ensuring children and youth with disabilities equal protection of the laws; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States to provide the full 40 percent federal share of funding for special education programs so that California and other states participating in these critical programs will not be required to take funding from other vital state and local programs in order to fund this underfunded federal mandate; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Committee on Budget, to the Chair of the House Committee on the Budget, to the Senate Committee on Appropriations, to the Chair of the House Committee on Appropriations, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of Education.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 19—Relative to Colorectal Cancer Awareness Month.

[Filed with Secretary of State April 5, 2001.]

WHEREAS, Colorectal cancer is the second leading cause of cancer deaths in men and women combined in the United States; and

WHEREAS, It is estimated that in the year 2001, over 130,000 new cases of colorectal cancer will be diagnosed in the United States; and

WHEREAS, In the year 2001, the disease is expected to kill an estimated 60,000 individuals in this country; and

WHEREAS, An estimated 11,400 individuals in the State of California were diagnosed with colorectal cancer in the year 2000; and

WHEREAS, Screening for colorectal cancer is underutilized, and less than 50 percent of individuals above age 50 receive annual screenings for colorectal cancer; and

WHEREAS, Adopting a healthy diet at a young age can significantly reduce the risk of developing colorectal cancer; and

WHEREAS, Regular screenings can detect polyps that lead to colorectal cancer and can save lives; and

WHEREAS, Education can help inform the public of methods of prevention and symptoms of early detection; and

WHEREAS, The State of California should help inform the public about colorectal cancer prevention and screening; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of March 2001 is hereby declared “Colorectal Cancer Awareness Month” in California; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 20—Relative to State Employee Mentor Awareness and Recruitment Day.

[Filed with Secretary of State April 6, 2001.]

WHEREAS, The development and success of California’s young people is threatened by the ongoing problems of early parenthood, drug and alcohol use, gang involvement and violence, and academic difficulties; and

WHEREAS, There is overwhelming evidence that young people who do not have the benefit of a caring adult in their lives are more likely to engage in destructive social behavior and fail in school; and

WHEREAS, Mentoring is a proven and effective way to match a caring adult with a young person to help boost the youth's self-esteem and foster the academic and social skills necessary to succeed in school and life; and

WHEREAS, The Governor and the First Lady have recognized the effectiveness of mentoring and local mentoring programs, and called for the recruitment of one million mentors by 2005 to assist California's children and teens in becoming productive, successful citizens; and

WHEREAS, State employees and state employee bargaining units, including the California Association of Professional Scientists (CAPS), the California State Employees Association (CSEA), and the Professional Engineers in California Government (PECG), share the Governor and First Lady's goal and are committed to helping to recruit a minimum of 10,000 state employee mentors in the next five years; and

WHEREAS, Many collective bargaining agreements allow state employees to receive up to 40 hours of paid mentoring leave per calendar year to volunteer as mentors provided an equal amount of their personal time is also used for mentor activities; and

WHEREAS, State agencies are directed to encourage state employees to become mentors and participate, at a minimum, at the level set forth in employee contracts; and

WHEREAS, There are an estimated 80,000 children in California on waiting lists for a mentor, and state employees will be referred to community and school-based mentor programs that have adopted the California Mentor Initiative's Quality Assurance standards; and

WHEREAS, The state employee mentor recruitment campaign will kick off with a lunchtime rally on the west steps of the State Capitol on April 3, 2001; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That April 3, 2001, shall be designed "State Employee Mentor Awareness and Recruitment Day," with the purpose of focusing positive attention on state employee mentors and encouraging others to mentor a young person.

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 8—Relative to Crime Victims' Rights Week.

[Filed with Secretary of State April 9, 2001.]

WHEREAS, Violent crimes that invade homes and shatter even the most trusting relationships continue to plague the citizens of California; and

WHEREAS, All Californians are affected by these violent acts, not just the victims of violent crimes; and

WHEREAS, The most effective aid that we can provide to victims of crime is to prevent them from becoming victims in the first place; and

WHEREAS, The recognition and protection of victims' rights within the legal process is one of the most critical components of an effective criminal justice system; and

WHEREAS, Victims and witnesses of crime require our special attention to ensure that they are thoroughly informed about, and participate effectively in, our criminal justice system; and

WHEREAS, To the maximum extent allowed by law, victims of violent crime should receive compensation for their losses; and

WHEREAS, Each day, thousands of victims and witnesses receive assistance from victim support organizations, victim-witness assistance centers, private service providers, and state and local governments; and

WHEREAS, The criminal justice system in this state must continue efforts to better coordinate and improve the quality of services provided to victims and witnesses; and

WHEREAS, Time after time, California citizens have continually demonstrated their commitment to victims of violent crimes; and

WHEREAS, The Legislature and the voters by initiative have expanded the death penalty and enacted the "Three Strikes" law as deterrents to violent crime; and

WHEREAS, Each year, the observance of the National Crime Victims' Rights Week focuses on the problems confronting victims of crime and the services available to support these victims; and

WHEREAS, National Crime Victims' Rights Week increases the public's awareness of crime victims' circumstances and acknowledges the combined efforts of citizens, government, and the criminal justice system to improve victims' services in California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 23 through 27, 2001, be recognized as Crime Victims' Rights Week in California; and be it further

Resolved, That on the occasion of Crime Victims' Rights Week, the Legislature encourages all Californians to join in this observance by wearing victim awareness ribbons to demonstrate their commitment to assisting victims and to the elimination of crime in the Golden State.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 34—Relative to California Earthquake Preparedness Month.

[Filed with Secretary of State April 9, 2001.]

WHEREAS, The Federal Emergency Management Agency estimates that of the nation's \$4.4 billion average annual capital and income losses due to earthquakes, 74 percent of those losses occur in California; and

WHEREAS, Major earthquakes registering magnitudes between 6.3 and 8.3 have occurred in California every 5.4 years, on average, for the past 200 years; and

WHEREAS, These earthquakes have resulted in loss of life, significant property damage, and indirect costs; and

WHEREAS, The United States Geological Survey estimates that there is a 90 percent chance that a major earthquake will strike an urban area in California within the next 30 years; and

WHEREAS, The majority of Californians live within 20 miles of a major earthquake fault; and

WHEREAS, Mitigating measures can save lives, reduce property damage, and alleviate traffic and economic dislocation caused by earthquakes; and

WHEREAS, The Federal Emergency Management Agency estimates that for every dollar spent on earthquake mitigation, \$2 to \$6 is saved if an earthquake occurs; and

WHEREAS, Education about the danger of earthquakes in California and the value of mitigation is the key to taking action at the city, county, and state levels of government; and

WHEREAS, It is important for these levels of government to work cooperatively with citizens, each other, the federal government, and other nations to mitigate damage caused by earthquakes; and

WHEREAS, It is vital that we examine the lessons learned from recent earthquakes in Seattle, El Salvador, and India, and that we share our knowledge with other states and nations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares that the month of April is California Earthquake Preparedness Month and urges all Californians and government agencies to engage in education, evaluation of seismic hazards, mitigation, safety activities, and the exchange of information related to earthquake preparedness with other states and nations during that month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 39—Relative to Work Zone Safety Awareness Week.

[Filed with Secretary of State April 9, 2001.]

WHEREAS, Accidents in highway work zones resulted in 868 deaths nationwide in 1999; and

WHEREAS, Workers in highway work zones and motorists traveling through the zones have suffered injury or death as a result of accidents in the work zones; and

WHEREAS, Employees and private citizens of the State of California are among those who must regularly work within the public right-of-way and in close proximity to traffic while performing their responsibilities, including the maintenance of streets, the maintenance and repair of water and sewer lines, the maintenance and replacement of traffic signs and signals, the application of pavement markings, and the maintenance and landscaping of street medians; and

WHEREAS, To increase public awareness of the need for greater caution and care by motorists while driving through highway work zones and to promote safe practices by workers while working in highway work zones, the Federal Highway Administration, the American Traffic Safety Services Association, and the American Association of State Highway and Transportation Officials have jointly declared the week of April 9 to April 12, 2001, as “National Work Zone Safety Awareness Week”; and

WHEREAS, The State of California desires to promote the safety of its employees and to encourage motorists traveling in and through the state to exercise caution and care when encountering a work zone; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of April 9 to April 12, 2001, as Work Zone Safety Awareness Week in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 31—Relative to Women’s History Month and women’s history curriculum.

[Filed with Secretary of State April 18, 2001.]

WHEREAS, Women of every race, culture, class, and ethnic background have participated in the founding and building of our nation and have made important and heroic contributions to the growth and strength of California, the nation, and the world in countless recorded and unrecorded ways; and

WHEREAS, Women’s History Month will include International Women’s Day on March 8, originally proclaimed in 1910, to recognize and commemorate the valuable contributions women have made to the labor movement; and

WHEREAS, The state and national observance of Women’s History Month began with a local observance of women’s history in public schools initiated in the fall of 1977 by the Sonoma County Commission on the Status of Women; and

WHEREAS, The National Women’s History Project has adopted “Celebrating Women of Courage and Vision” as the theme for Women’s History Month 2001, inviting all Californians to honor the courage and vision of all women, those famous and those known to only a few, whose lives have inspired others; and

WHEREAS, Women have played and continue to play a critical economic, cultural, and social role in every aspect of life by constituting a significant portion of the labor force working inside and outside of the home; and

WHEREAS, Women have made significant achievements and valuable contributions in many fields, including science, government, sports, music, art, literature, business, education, technology, medicine, and journalism; and

WHEREAS, Women were early leaders in the forefront of every major progressive social change movement, including the struggle to secure their own rights of suffrage and equal opportunity, the abolitionist movement, the industrial labor movement, the civil rights movement, the peace movement, and other movements which helped create a more fair and just society for all; and

WHEREAS, The year 2001 celebrates the 90th anniversary of California women winning the right to vote; and

WHEREAS, California is the first state in the Union to elect two women to serve in the United States Senate; Senator Dianne Feinstein and Senator Barbara Boxer; and

WHEREAS, California is the only state to host two Women's National Basketball Association (WNBA) teams; the Los Angeles Sparks and the Sacramento Monarchs; and

WHEREAS, Despite these extensive contributions the role of women in history has been consistently overlooked and undervalued in the literature, teaching, and study of history in California public schools; and

WHEREAS, Education of California's children about the important achievements and contributions made by women is in the best interest of all Californians and the future of this state, and will better enable girls and boys to gain an understanding of today's world and to work together to create a future with fewer barriers, greater opportunities, and respect for all people; and

WHEREAS, The celebration of Women's History Month will provide an opportunity for schools and communities to focus attention on the important historical role and accomplishments of women, and for students in particular to benefit from an awareness of these contributions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California takes pleasure in honoring the important contributions of women throughout history, and proclaims the month of March 2001 as Women's History Month; and be it further

Resolved, That the Legislature of the State of California urges all Californians to celebrate Women's History Month and join in the commemoration of International Women's Day on March 8, 2001; and be it further

Resolved, That the Legislature of the State of California urges all California public school districts to add an accurate and inclusive women's history component into approved curriculum and provide the corresponding educational materials for pupils in grades 1 to 12, inclusive; and be it further

Resolved, That the Legislature of the State of California urges the State Board of Education to ensure that the state curriculum framework includes accurate and inclusive instruction on the accomplishments and contributions of women throughout history; and be it further

Resolved, That the Legislature of the State of California urges the State Board of Education to ensure that state criteria for selecting textbooks include information to guide the selection of textbooks that emphasize the accomplishments and contributions of women throughout history; and be it further

Resolved, That a copy of this resolution be transmitted to the State Board of Education, the Superintendent of Public Instruction, the

California Commission on the Status of Women, and all local commissions on the status of women.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 40—Relative to Mathematics Education Awareness Month.

[Filed with Secretary of State April 18, 2001.]

WHEREAS, The ideas, concepts, and skills of mathematics are fundamental building blocks, essential for success, both in school and in life; and

WHEREAS, Though the results of the 2000 STAR test demonstrate significant improvement in every grade over the 1999 scores, mathematics achievement in California is not yet at a satisfactory level; and

WHEREAS, A 2000 Rand study entitled, “Improving Student Achievement: What State NAEP Test Scores Tell Us” found that in a cross-state comparison of mathematics achievement of pupils from similar families, California ranked last; and

WHEREAS, The systematic mastery of mathematics skills is crucial to a great multitude of career paths that pupils might choose and will allow them to compete in the global market place; and

WHEREAS, These skills are best acquired through a rich and demanding mathematics curriculum, delivered by an effective teacher; and

WHEREAS, Pupils who value their future should not hesitate to challenge themselves by taking challenging mathematics courses and studying conscientiously; and

WHEREAS, Parents can give their children a considerable advantage in the area of mathematics achievement by simply taking the time to help them with their mathematics homework or play mathematics intensive games with them; and

WHEREAS, Teachers and administrators should not shrink from their responsibility to offer a rigorous, content-rich mathematics curriculum; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature proclaims April 2001 to be Mathematics Education Awareness Month; and be it further

Resolved, That the Legislature recognizes the state’s significant gains in mathematics achievement, and encourages all Californians, especially pupils, parents, teachers and administrators, to work together

to ensure that the mathematics curricula of their local schools are adequately preparing our children for the challenges of tomorrow.

RESOLUTION CHAPTER 27

Assembly Concurrent Resolution No. 12—Relative to child abuse and neglect.

[Filed with Secretary of State April 23, 2001.]

WHEREAS, Child abuse and neglect not only scar the lives of tens of thousands of California children each year but also directly cost the state over \$3 billion in added costs for the provision of social services and billions more in medical, mental health, and judicial costs; and

WHEREAS, Emerging child development research shows that exposure to violence negatively affects the brain development of young children; and

WHEREAS, California has assumed legal responsibility for over 100,000 children removed from abusive environments and has a special obligation to ensure that these children are provided the care, treatment, and educational opportunities needed to heal the scars of mistreatment; and

WHEREAS, Foster care can protect many children from further abuse and neglect; but for too many children foster care has failed to provide the healing and nurturing that these children need; and

WHEREAS, Policymakers should affirm the extraordinary obligation of the state to care for abused children and prevent abuse by helping troubled families; and

WHEREAS, When the state assumes the role of parent, it assumes the responsibility and the obligation to provide the highest quality of care; and

WHEREAS, Child abuse and neglect constitute behavior that can and must be prevented; and

WHEREAS, The state should encourage innovative programs by funding pilot programs, conducting rigorous evaluations, and aggressively replicating and expanding cost-effective strategies to minimize child abuse and the need for foster care placement; and

WHEREAS, Foster care caseloads are growing because more children are entering the system and staying longer; and

WHEREAS, Too many children are returned to foster care after failed attempts to reunify them with their families; and

WHEREAS, The adoption process is unnecessarily tedious and cumbersome, frustrating the goal of increasing the number of successful foster care adoptions, particularly for older children; and

WHEREAS, Children are staying in temporary placement too long, aggravating the trauma of separation and limiting opportunities for permanent placement in nurturing families; and

WHEREAS, When a child is placed in foster care, the child becomes a legal dependent of the state; the state must fully live up to its obligation to care for and nurture abused children under its protection by healing the traumas of maltreatment in order to speed these children toward successful adulthood; and

WHEREAS, Each case of child abuse is a personal tragedy and social malady with far-reaching consequences for all Californians; it is past time for policymakers to make abused and neglected children a priority and ensure that programs are managed effectively to respond comprehensively to this problem; and

WHEREAS, The Members of the Legislature recognize the need to focus on this important issue in the 2001–02 Regular Session; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature designate the year 2001 as the Year of Heightened Concern for Special Children; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 41—Relative to California Earth Day.

[Filed with Secretary of State April 23, 2001.]

WHEREAS, Thirty-one years ago, millions of Americans of all ages, walks of life, and political affiliations joined together on the first Earth Day in a demonstration of concern and support for the environment; and

WHEREAS, Public awareness of the environment, fostered by the first Earth Day, has led to the enactment of key federal laws, including the Clean Air Act and the Clean Water Act, and the creation of the Environmental Protection Agency, to protect the environment; and

WHEREAS, The spirit of the first Earth Day has continued, and increased public awareness has caused Californians to make individual decisions that will reduce adverse impacts on the environment; and

WHEREAS, California's environmental attributes, including its rocky coasts, sandy beaches, redwood forests, stark deserts, and towering mountains, make the state the most beautiful in the nation; and

WHEREAS, The Legislature recognizes and has helped safeguard the state's unique environmental attributes through the enactment of laws including the California Environmental Quality Act, the Coastal Protection Act, the Toxic Substances Control Act, the Integrated Waste Management Act, and the California Clean Air Act, which protect its scenic beauty, natural resources, and the quality of its water, air, and land; and

WHEREAS, New and continuing threats of increasing severity to our environment, including global climate change, stratospheric ozone depletion, acid rain, polluted oceans and waterways, loss of forests, wetlands, and other wildlife habitats, and contamination of air and drinking water sources by nuclear, hazardous, and solid wastes, demand renewed public involvement; and

WHEREAS, Critical federal and state laws and international agreements that protect the quality of the environment are needed now more than ever in the new millennium; and

WHEREAS, Activities to celebrate, on April 22, 2001, the 31st anniversary of the first Earth Day, will focus public attention and encourage personal and community participation in order to protect the environment through recycling, conserving energy and water, using efficient transportation, and other environmentally responsible personal actions; and

WHEREAS, Earth Day 2001 will provide an impetus for additional protection of the environment, and continued local, state, national, and international efforts will be required at an unprecedented level during the next decade in order to remedy the environmental problems that we face; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That April 22, 2001, is hereby declared to be "California Earth Day"; and be it further

Resolved, That the Legislature reaffirms its commitment to the fundamental principles that underlie the state's environmental laws, including the protection of human health from environmental hazards through the prevention of environmental risks and the maintenance of health-based standards; the continuance of programs to safeguard the quality of the air we breathe and the water we drink; the recycling and reuse of materials, whenever feasible, to reduce the economic and environmental costs of disposal, and to recapture the value of these materials for the state's economy; the effective cleanup of pollution of the state's land, air, and water resources; the preservation of natural ecosystems; and maintenance of the fundamental right of the public to

know about environmental hazards and to fully participate in public decisions regarding the environment; and be it further

Resolved, That California recognizes the importance of the environment and encourages residents to include in their daily lives those activities that promote the goals of Earth Day 2001; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Governor and to the Secretary for Resources and the Secretary for Environmental Protection.

RESOLUTION CHAPTER 29

Senate Concurrent Resolution No. 9—Relative to the Vicente “Vince” Andrade Memorial Bridge.

[Filed with Secretary of State April 30, 2001.]

WHEREAS, Vicente “Vince” Andrade, was born in Winslow, Arizona, and following his work experience as a land surveyor in Los Angeles and Alaska, he moved to the City of San Marcos where he formed the La Vara Surveying Company; and

WHEREAS, A powerful force both in the City of San Marcos and as a voice for North San Diego County’s Latino community, this man was recognized as making numerous invaluable contributions for the benefit and continued progress of the overall community; and

WHEREAS, Vince Andrade was recognized in May of 1998 when he received the Making A Difference Award, lauding Mr. Andrade’s leadership in founding El Grupo Sin Nombre, an umbrella organization aimed at giving 37 Latino groups a unified voice on political and social issues in North San Diego County; and

WHEREAS, Vince Andrade served as Chairperson of the Board of Directors for North County Health Services, President of the Hispanic Advisory Council at California State University, San Marcos, and Chairperson of the Latino Coalition for Education; and

WHEREAS, In 1996, after a three-year term on the planning commission, Vince Andrade was elected to the San Marcos City Council where he served with distinction and represented the city as a SANDAG board member and was instrumental in securing additional funds for construction of the Twin Oaks Valley Road interchange improvements; and

WHEREAS, Following a five year courageous battle against recurring cancer, this outstanding community leader died on January 23, 1999; and

WHEREAS, It would be a fitting tribute to Vicente “Vince” Andrade to name the recently completed Twin Oaks Valley Road Bridge on State Highway Route 78 in the City of San Marcos, San Diego County, in his memory; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the Twin Oaks Valley Road Bridge on State Highway Route 78 in the City of San Marcos, San Diego County, as the Vicente “Vince” Andrade Memorial Bridge in honor and recognition of Vicente “Vince” Andrade; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation and to the author for distribution.

RESOLUTION CHAPTER 30

Senate Concurrent Resolution No. 27—Relative to California Nonprofits and Philanthropy Week.

[Filed with Secretary of State April 30, 2001.]

WHEREAS, One of the great strengths of California is the presence of vigorous nonprofit and philanthropic organizations that provide a private means to pursue public purposes outside the confines of either the market or the state; and

WHEREAS, Citizens of California have joined together to form over 130,605 nonprofit organizations including 57,157 active 501(c)(3) charitable nonprofit organizations, 3,200 private foundations, and 25,187 religious groups that employ over 750,000 people and receive and spend over \$80 billion a year; and

WHEREAS, Nonprofit and philanthropic organizations touch the lives of every person in the state of California by serving people from all walks of life, all socioeconomic groups, political orientations, ethnicities, ages, genders, and cultural backgrounds; and

WHEREAS, Embraced within the nonprofit sector are some of our state’s premier universities, hospitals, symphonies, museums, theaters, and grassroots groups as well as thousands of community organizations

that channel our impulses for charity, justice, and compassion to serve the common good and support and empower those in greatest need; and

WHEREAS, Half of all hospital care, most of human services, a significant share of higher education, most of all low-cost housing, almost all arts and culture, and almost all social justice and environmental programs are provided by nonprofit organizations; and

WHEREAS, Over 15 million California citizens volunteer three to five hours per week with nonprofit organizations; and

WHEREAS, The 3,200 independent foundations, 100 corporate foundations, and 25 community foundations, with assets of \$18 billion, annually give \$1.28 billion in grants to California nonprofit organizations, an aggregate of 6.1 percent of assets, \$300 million more than required by law in 1997, and include seven of the nation's largest independent foundations, and seven of the nation's largest community foundations; and

WHEREAS, Nonprofit social service and philanthropic organizations have helped millions of Americans get back on their feet, enabling them to become active, productive citizens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the importance and value of nonprofit and philanthropic organizations; and be it further

Resolved, That the California Legislature hereby proclaims April 22–28, 2001 as California Nonprofits and Philanthropy Week presented by the California Association of Nonprofits and its Nonprofit Policy Council; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 31

Senate Joint Resolution No. 5—Relative to the Armenian Genocide.

[Filed with Secretary of State April 30, 2001.]

WHEREAS, Armenians living in their historic homeland in Asia Minor were subjected to severe persecution and brutal injustice by the Turkish rulers of the Ottoman Empire before and after the turn of the twentieth century, including widespread acts of destruction, mayhem, and murder during the period from 1894 to 1896, and again in 1909; and

WHEREAS, The horrible experience of the Armenians at the hands of their Turkish oppressors culminated with what is known by historians as the “First Genocide of the Twentieth Century,” or the “Forgotten Genocide”; and

WHEREAS, The Armenian Genocide began with the murder of hundreds of Armenian intellectuals, and political, religious, and business leaders who were arrested and taken from their homes in Constantinople before dawn on April 24, 1915; and

WHEREAS, The Young Turk regime then in control of the empire planned and executed the unspeakable atrocities committed against the Armenians from 1915 through 1923, including the torture, starvation, and murder of 1.5 million Armenians, death marches into the Syrian desert, and the exile of more than 500,000 innocent people; and

WHEREAS, While there were some Turks who jeopardized their safety in order to protect Armenians from the slaughter being perpetrated by the Young Turk regime, the massacres of the Armenians constituted one of the most atrocious violations of human rights in the history of the world; and

WHEREAS, The United States Ambassador to the Ottoman Empire, Henry Morgenthau, Sr., stated “Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The killing of the Armenian people was accompanied by the systematic destruction of churches, schools, libraries, treasures of art, and cultural monuments in an attempt to eliminate all traces of a noble civilization with a history of more than 3,000 years”; and

WHEREAS, Contemporary newspapers like the New York Times carried headlines including, “Tales of Armenian Horrors Confirmed,” “Million Armenians Killed or in Exile,” and “Wholesale Massacre of Armenians by Turks”; and

WHEREAS, Adolph Hitler, in persuading his army commanders that the merciless persecution and killing of Jews, Poles, and other groups of people would bring no retribution, declared, “Who, after all, speaks today of the annihilation of the Armenians”; and

WHEREAS, Unlike other groups and governments that have admitted the abuses and crimes of predecessor regimes, and despite the overwhelming weight of the evidence, the Republic of Turkey has denied the occurrence of the crimes against humanity committed by the Young Turk rulers, and those denials compound the grief of the few remaining survivors of the atrocities and desecrate the memory of the victims; and

WHEREAS, Nations of the world have suffered reprisals and condemnations by Turkey because of efforts to commemorate the Armenian Genocide; and

WHEREAS, There have been concerted efforts to revise history through the dissemination of propaganda suggesting that Armenians were responsible for their fate in the period from 1915 through 1923 and by the funding of programs at American educational institutions for the purpose of furthering the cause of this revisionism and to counter, in the words of a Turkish official, “the Armenian view”; and

WHEREAS, Leaders of nations with strategic, commercial, and cultural ties to the Republic of Turkey should be reminded of their duty to encourage Turkish officials to cease efforts to distort facts and deny the history of events surrounding the Armenian Genocide; and

WHEREAS, The accelerated level and scope of denial and revisionism, coupled with the passage of time and the fact that very few survivors remain who serve as reminders of indescribable brutality and tormented lives, compel a sense of urgency in efforts to solidify recognition of historical truth; and

WHEREAS, By consistently remembering and forcefully condemning the atrocities committed against the Armenians and honoring the survivors, as well as other victims of similar heinous conduct, we guard against repetition of those acts of genocide; and

WHEREAS, California is home to the largest population of Armenians in the United States, and those citizens have enriched our state through their leadership in the fields of business, agriculture, academia, medicine, government, and the arts and are proud and patriotic practitioners of American citizenship; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby designates April 24, 2001, as “California Day of Remembrance for the Armenian Genocide of 1915–1923;” and be it further

Resolved, That the State of California respectfully memorializes the Congress of the United States to likewise act to commemorate the Armenian Genocide; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, Members of the United States Congress, the Governor, and Armenian churches and commemorative organizations in California.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 7—Relative to California Peace Officers’ Memorial Day.

[Filed with Secretary of State May 1, 2001.]

WHEREAS, May 4, 2001, is California Peace Officers' Memorial Day, a day Californians observe in commemoration of those noble officers who have tragically sacrificed their lives in the line of duty; and

WHEREAS, Although California citizens are indebted to our California peace officers each day of the week, we make particular note of their bravery and dedication and we share in their losses on California Peace Officers' Memorial Day; and

WHEREAS, California peace officers have a job second in importance to none, and it is a job that is as difficult and dangerous as it is important; and

WHEREAS, The peace officers of California have worked devotedly and selflessly on behalf of the people of this great state, regardless of the peril or hazard to themselves; and

WHEREAS, By the enforcement of our laws, these same officers have safeguarded the lives and property of the citizens of California and have given their full measure to ensure those citizens the right to be free from crime and violence; and

WHEREAS, Special ceremonies and observances on behalf of California peace officers provide all Californians with the opportunity to appreciate the heroic men and women who have dedicated their lives to preserving public safety; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members designate Friday, May 4, 2001, as California Peace Officers' Memorial Day, and urge all Californians to remember those individuals who gave their lives for our safety and express appreciation to those who continue to dedicate themselves to making California a safer place in which to live and raise our families.

RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 9—Relative to Law Enforcement Appreciation Week.

[Filed with Secretary of State May 1, 2001.]

WHEREAS, Public safety for the citizens of this state is of the utmost priority; and

WHEREAS, Law enforcement officers of this state are on the front lines daily risking their lives to ensure that each citizen can live in a safe and secure environment; and

WHEREAS, Law enforcement officers work in partnership with their community to protect life and property, solve neighborhood problems, and enhance the quality of life in this state; and

WHEREAS, Law enforcement officers bear the public trust and dedicate themselves to the protection of the safety and rights of the citizens of this state; and

WHEREAS, The third week of May has been dedicated to law enforcement officers by the United States Congress as National Police Memorial Week to honor all officers who have given the ultimate sacrifice while in the line of duty; and

WHEREAS, Ceremonies will be held in Sacramento in conjunction with National Police Memorial Week and Law Enforcement Appreciation Week, acknowledging the sacrifices and dedication of our local law enforcement professionals; and

WHEREAS, Law enforcement officers and their families and friends encourage the community to participate and acknowledge the sacrifices of those brave men and women who are entrusted with the public safety by attending these weeklong events starting with the opening ceremony on Sunday, May 13, 2001, and ending with a memorial ceremony on Saturday, May 19, honoring the memory of California officers killed in the line of duty; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby proclaim May 13 through May 19, 2001, as Law Enforcement Appreciation Week in California, and encourages all Californians to join in this observance to commend our law enforcement officers for their professionalism and commitment to the citizens of California; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 36—Relative to Meningitis Awareness Month.

[Filed with Secretary of State May 1, 2001.]

WHEREAS, Meningococcal disease, caused by the bacteria *Neisseria meningococcus*, is one of the most deadly and least understood infections in the United States; and

WHEREAS, This disease can affect otherwise healthy people without warning, and causes serious illness and often death; and

WHEREAS, The two most common types of meningococcal disease are: (1) meningitis, an infection of the fluid that surrounds the spinal cord and the brain, causing high fever, confusion, sleepiness, nausea, and

vomiting, and (2) meningococemia, an infection of the blood stream that causes a rash or spots; and

WHEREAS, Both of these diseases can be fatal within hours after the first symptoms appear; and

WHEREAS, Individuals who survive meningococcal infection can suffer from debilitating effects, such as hearing and vision loss, learning difficulties or mental retardation, loss of limbs, and paralysis; and

WHEREAS, The bacteria can be passed by direct and close contact with someone who is infected or is carrying the bacteria; and

WHEREAS, Approximately 20 to 25 percent of the general population carries the bacteria in the back of their noses and throats without developing the disease, but may pass the bacteria to others; and

WHEREAS, The bacteria causing meningococcal disease can be spread through the exchange of respiratory and throat secretions that result from coughing, kissing, and sharing items such as cigarettes, lipstick, food and drinks, toothbrushes, and mouth guards; and

WHEREAS, The bacteria causing meningococcal disease cannot be spread by being in the same room or by simply breathing the air where a person with the infection has been; and

WHEREAS, The disease usually develops within one to 10 days after exposure; and

WHEREAS, Meningococcal disease can be treated with a number of effective antibiotics, but it is important that treatment be started as early as possible in the course of the disease because the onset of symptoms is extremely rapid; and

WHEREAS, While in the past, the attack rate of meningococcal disease was highest among children six to 36 months of age, the risk now appears to be shifting toward older children and adolescents, with a number of outbreaks in schools, universities, and other organization-based settings; and

WHEREAS, People in the Sacramento region are experiencing an increase in the level of concern regarding meningococcal disease, with over 25 cases of the disease within the last year in Sacramento, El Dorado, and Placer Counties, with five of those resulting in death; and

WHEREAS, While a vaccination is available for four of the five common strains of the disease, the Centers for Disease Control and Prevention has recommended only that military recruits and college freshman living in dormitories and residence halls receive the vaccination; and

WHEREAS, The majority of meningitis deaths in the Sacramento region have been high school students; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the medical community is requested to inform, as a

routine practice, adolescent patients and their parents about the vaccination options against meningococcal disease; and be it further

Resolved, That the Legislature hereby designates April 2001 as Meningitis Awareness Month in this state in order to increase public awareness of this disease and the availability of successful vaccines.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 45—Relative to California Community College Month.

[Filed with Secretary of State May 1, 2001.]

WHEREAS, The California Community Colleges are an essential resource of the State of California, its people, and its economy; and

WHEREAS, California's 108 community colleges provide an excellent general education foundation for more than 70,000 students per year who transfer into the California State University system, the University of California system, and into independent colleges and universities; and

WHEREAS, The California Community Colleges train students to be competitive in today's demanding workforce, ensuring those students a productive, higher-wage future and providing the state's fastest-growing industries with the skilled labor upon which their success depends; and

WHEREAS, The California Community Colleges bring higher education within the reach of every Californian because of their open admissions, low enrollment fees, financial assistance for low-income students, academic and career guidance, excellent teaching by dedicated faculty, and specialized support services for students who need extra help with the transition to college or to the mastery of college-level coursework; and

WHEREAS, During the 1999–2000 academic year, 2,500,000 Californians enrolled in a community college course or program to upgrade their job skills, train for a first or a new career, begin work towards a bachelor's degree, improve language or math skills, or pursue a quest for knowledge; and

WHEREAS, Community colleges provide a welcome into higher education for California's population in all of its diversity of race, ethnicity, and national origin; and

WHEREAS, April is celebrated as Community College Month across the nation, and April 2001 marks the Community College Centennial; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby recognizes April 2001 as California Community College Month, and commends the nation's community colleges on providing 100 years of opportunity and excellence in higher education and workforce preparation; and be it further

Resolved, That the Legislature urges the residents of California to participate in public events held on their local community college campuses during California Community College Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the California Education Round Table, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 57—Relative to California Holocaust Memorial Week.

[Filed with Secretary of State May 1, 2001.]

WHEREAS, Sixty years have passed since the tragic events we now call the Holocaust transpired, in which the dictatorship of Nazi Germany murdered six million Jews as part of a systematic program of genocide known as “The Final Solution of the Jewish Question”; and

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, Five million other people were also murdered by the Nazis; and

WHEREAS, We must be reminded of the reality of the Holocaust's horrors so they will never be repeated; and

WHEREAS, Each person in California should set aside moments of his or her time every year to give remembrance to those who lost their lives in the Holocaust; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of April 15 through April 22, 2001, as Holocaust Memorial Week—Days of Remembrance for Victims of the Holocaust; and

WHEREAS, April 19, 2001, is Yom HaSho'ah, and has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 15 through April 22, 2001, be

proclaimed as California Holocaust Memorial Week, and that Californians are urged to observe these days of remembrance for victims of the Holocaust in an appropriate manner; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 35—Relative to skin cancer and melanoma awareness.

[Filed with Secretary of State May 8, 2001.]

WHEREAS, Malignant melanoma, a serious skin cancer, is characterized by the uncontrolled growth of pigment-producing tanning cells; and

WHEREAS, Melanoma has its beginnings in melanocytes, the skin cells that produce the dark protective pigment called melanin. Melanomas may suddenly appear without warning, but may also begin in or near a mole or other dark spot in the skin; and

WHEREAS, Melanoma generally begins as a mottled, light brown to black flat blemish with irregular borders, usually at least one-quarter inch in size. It may turn shades of red, blue or white, crust on the surface or bleed, and most frequently appears on the upper back torso, lower legs, head and neck; and

WHEREAS, Excessive exposure to the ultraviolet radiation of the sun is the most important preventable cause of melanoma. Other possible causes include genetic factors and immune deficiencies. Malignant melanoma has also been linked to past sunburns and sun exposure at younger ages; and

WHEREAS, Melanoma can affect men, women, and children, but individuals with increased risk include those with fair complexions, prior significant sunburns, a family member with melanoma, or a high number of atypical moles; and

WHEREAS, Atypical moles are unusual moles that are generally larger than normal moles, variable in color, often have irregular borders, and may occur in far greater number than regular moles; and

WHEREAS, The incidence of melanoma has doubled in the last 20 years, and it continues to rise faster than any other cancer in women, except for lung cancer. Melanoma is the most common form of cancer among people between 25 and 29 years of age, and experts estimate that if the present rate continues, soon melanoma will strike one in 75 Americans; and

WHEREAS, Six out of seven skin cancer deaths are from malignant melanoma. Advanced malignant melanoma spreads to other organs and may result in death. When detected early, surgical removal of thin melanomas can cure the disease in most cases; and

WHEREAS, Early detection is crucial. There is a direct correlation between the thickness of the melanoma and the survival rate. If a melanoma is detected and treated early, the cure rate is very high. Generally, as the disease advances, the tumor thickens and spreads, lowering the survival rate; and

WHEREAS, Correct aggressive treatment by qualified medical professionals can lead to positive results; and

WHEREAS, Melanoma in its early stages may only be detected by visual inspection. Dermatologists recommend regular self-examination of the skin to detect changes in its appearance, especially changes in existing moles or blemishes. Additionally, patients with risk factors should have a complete skin examination annually; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 2001 shall be recognized as Skin Cancer Awareness Month in California, and all Californians be encouraged to make themselves and their families aware of the risk of skin cancer and the preventive measures; and be it further

Resolved, That the Legislature hereby proclaims May 7, 2001, as Melanoma Awareness Monday in California to increase public awareness of the importance of routine complete skin examination to detect early melanomas.

RESOLUTION CHAPTER 38

Assembly Concurrent Resolution No. 52—Relative to California Professional Beauty and Barbering Industry Week.

[Filed with Secretary of State May 8, 2001.]

WHEREAS, The professional beauty and barbering industry in California annually generates nearly \$6 billion in revenues for the state economy; and

WHEREAS, This industry provides thousands of exciting employment opportunities for California citizens; and

WHEREAS, Those involved in the California beauty and barbering industry provide consumers with highly valued services and develop professional and positive long-term relationships with those clients; and

WHEREAS, April 30 is recognized as National Hairstylist Day; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California State Legislature recognizes the California beauty and barbering industry's positive impact on California's employment market and economy and declares the week of April 22 to April 28 the "California Professional Beauty and Barbering Industry Week"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Bureau of Barbering and Cosmetology and to the author for appropriate distribution.

RESOLUTION CHAPTER 39

Assembly Concurrent Resolution No. 60—Relative to Keep California Beautiful Month.

[Filed with Secretary of State May 8, 2001.]

WHEREAS, California is environmentally diverse and uniquely beautiful; and

WHEREAS, California's vast natural resources are vital to the state's economic prosperity and the quality of life of its residents; and

WHEREAS, Keep California Beautiful is a nonpartisan, nonprofit public education organization chartered by the State of California in 1990; and

WHEREAS, The ongoing mission of Keep California Beautiful is to encourage grassroots responsibility for California's environment by promoting and coordinating cleanup, beautification, recycling, and waste reduction projects; and

WHEREAS, Keep California Beautiful actively develops and coordinates partnerships with businesses, governmental entities, and private organizations to accomplish these goals; and

WHEREAS, Governor Gray Davis has proclaimed the month of April 2001 as "Keep California Beautiful Month"; and

WHEREAS, During Keep California Beautiful Month, thousands of volunteers will take part in hundreds of cleanup and beautification efforts throughout the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the Governor's proclamation of, and designates, April 2001 as "Keep California Beautiful Month"; and be it further

Resolved, That the Legislature extends its gratitude to the thousands of volunteers helping to preserve California's beauty for generations to come; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Keep California Beautiful, and to the author's office for appropriate distribution.

RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 24—Relative to organ and tissue donation.

[Filed with Secretary of State May 10, 2001.]

WHEREAS, More than 75,000 individuals nationwide, and 15,000 in California, are currently on a waiting list for an organ transplant; and

WHEREAS, Every two hours one person dies while waiting for a transplant; and

WHEREAS, A single donor donating the heart, lungs, pancreas, kidneys, liver, small intestine, and tissues can help more than 50 recipients; and

WHEREAS, Each year, 20,000 lives are saved, and the quality of life for many others is enhanced, by organ and tissue transplant procedures; and

WHEREAS, Many bereaved families find comfort in donating organs and tissue; and

WHEREAS, A state organ and tissue donor registry could substantially increase and expedite the number of donations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims the week of April 15 to 21, 2001, as Organ and Tissue Donor Awareness Week; and be it further

Resolved, That the Senate and Assembly of the State of California encourages all Californians to learn the facts about organ and tissue donation, make a decision about becoming a donor, and discuss this decision with family members; and be it further

Resolved, That the Legislature recognizes organ and tissue donors and their surviving families as true heroes, for having given the ultimate gift.

RESOLUTION CHAPTER 41

Assembly Concurrent Resolution No. 21—Relative to the University of California.

[Filed with Secretary of State May 11, 2001.]

WHEREAS, The University of California is committed to enrolling a student body reflective of the diversity of the State of California; and

WHEREAS, It is vital to the future economic growth of the State of California that equal educational opportunities are available to all Californians; and

WHEREAS, Limiting educational opportunities in higher education at the undergraduate and professional level perpetuates inequity among Californians; and

WHEREAS, On July 20, 1995, the Regents of the University of California voted to adopt SP-1, a measure banning affirmative action policies in admissions; and

WHEREAS, This action by the regents has placed the university in the vortex of a divisive nationwide political movement, and has resulted in a dramatic decrease in the number of African-American, Latino, and Native American students offered admission to the University of California beginning in 1997; and

WHEREAS, In Fall 1999, underrepresented minorities, including African-Americans, Chicano/Latinos, and American Indians only represented 15.4 percent of all incoming freshman students, a percentage that is far less than their representation in the general population of the state; and

WHEREAS, From Fall 1994, before the passage of SP-1, to Fall 2000, the number of African-Americans who submitted applications to law school at UC Berkeley, UC Davis, and UCLA has dropped 52 percent from 1,105 to 531, and their acceptance rate over the same period has fallen 50 percent to an acceptance rate of 11 percent and a total of only 14 African-Americans enrolled in all three schools in Fall 2000; and

WHEREAS, From Fall 1994 to Fall 2000, the number of Latino students who submitted applications to law school at UC Berkeley, UC Davis, and UCLA has dropped 37 percent from 1,570 to 993, and their enrollment rate over the same period of time has fallen 22 percent, with only 58 Latino students enrolling in all three schools in Fall 2000 compared to 110 in Fall 1994; and

WHEREAS, SP-1 restricts selection criteria at each University of California campus by requiring that between 50 and 75 percent of each class be selected based on academic achievement alone, and thereby restricts the ability of the University of California to rigorously and

comprehensively review all applicants and take into consideration criteria such as social and economic hardship; and

WHEREAS, The dramatic decline in the number of underrepresented students gaining admission to the University of California has discouraged underrepresented minorities from applying to schools they perceive as hostile and unwelcoming; and

WHEREAS, By repealing SP-1, the regents would assert that the University of California is committed to enrolling all students, and would assure minority students that they are welcome and wanted; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California officially requests the Regents of the University of California to repeal SP-1 by the end of the 2000–01 academic year; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each member of the Regents of the University of California.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 64—Relative to charter schools.

[Filed with Secretary of State May 11, 2001.]

WHEREAS, Charter schools are public schools operating on the principles of accountability, flexibility, autonomy, and choice for parents and teachers; and

WHEREAS, Charter schools, in exchange for flexibility and autonomy, are held accountable by their sponsors for improving pupil achievement and for their financial and other operations; and

WHEREAS, Charter schools are in demand. There are over 300 charter schools in California serving 130,000 pupils in kindergarten and grades 1 to 12, inclusive; and

WHEREAS, Charter schools can tackle problems of low academic performance and overcrowding. Many have tackled the problems of at-risk and low-performing pupils, many times in urban areas, and they have been successful; and

WHEREAS, Both Democrats and Republicans have embraced charter schools as an important option to improving our education system; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California joins the California Network of Educational Charters and proclaims April 30

through May 4, 2001, as California Charter Schools Week and calls upon all Californians to observe this week by recognizing the benefits of charter schools; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 43

Assembly Concurrent Resolution No. 69—Relative to Day of the Teacher.

[Filed with Secretary of State May 11, 2001.]

WHEREAS, An educated citizenry serves as the very foundation of our democracy; and

WHEREAS, Today's teachers mold the minds and train the workforce of the future; and

WHEREAS, No other profession touches as many persons with such a lasting effect; and

WHEREAS, Good teaching grows in value and pays dividends far beyond the classroom; and

WHEREAS, California long ago recognized the immeasurable value of our teachers and has designated the second Wednesday in May to be Day of the Teacher, a special observance that honors teachers and the teaching profession; and

WHEREAS, Day of the Teacher has been sponsored by the California Teacher's Association and the Association of Mexican American Educators and was first recognized in 1982; and

WHEREAS, California has patterned its celebration after the traditional "El Dia del Maestro" festivities observed in Mexico and other Latin American countries; and

WHEREAS, Day of the Teacher should be a day for school districts, parents, public officials, and the community to recognize the dedication and commitment of teachers who are educating our children; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the day of May 9, 2001, be proclaimed Day of the Teacher; and be it further

Resolved, That the Legislature urges all Californians to observe the Day of the Teacher by taking the time to remember and honor all teachers who give the gift of knowledge through teaching; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 44

Senate Concurrent Resolution No. 31—Relative to 9-1-1 for Kids Week.

[Filed with Secretary of State May 16, 2001.]

WHEREAS, Every year, hundreds of thousands of calls are received at 9-1-1 emergency system centers across the state; and

WHEREAS, Over 20 percent of all calls made to those 9-1-1 emergency system centers are “abandoned” calls, where the caller either hangs up or does not speak, all of which must be traced by emergency system center personnel at enormous public cost; and

WHEREAS, In Houston, Texas, public safety officials found that 50 percent of the 160,000 9-1-1 calls that were dispatched in 1994 were deemed not to be emergencies and, at a median cost of \$350 for each basic emergency medical services response, the City of Houston alone could save \$12,000,000 per year by eliminating these nonemergency 9-1-1 calls; and

WHEREAS, Many 9-1-1 callers are young and curious or thrill seekers who do not understand that their misuse and abuse of the system wastes public resources and diverts emergency personnel and equipment from others who desperately need help; and

WHEREAS, In 1991 the San Jose Police Department, the California Chapter of the National Emergency Number Association, the State of California 9-1-1 Program office, corporations, and individuals began a collaborative effort to develop 9-1-1 educational materials targeting children, ages 4 to 7 years; and

WHEREAS, In the summer of 1994, work began on a “9-1-1 for Kids” curriculum and set of educational materials that would deliver easy to remember messages about the proper use of the 9-1-1 emergency system, hold children’s interest, have universal appeal to all children, have guaranteed wide application, and have a long shelf life; and

WHEREAS, Emmy and Peabody Award winning Tony Urbano Productions joined the project team and created the 9-1-1 for Kids mascot, “Red E. Fox,” that has captivated children and adults alike and helped deliver critical 9-1-1 information in a fun and memorable manner; and

WHEREAS, The nonprofit organization “9-1-1 for Kids” was formed in 1995 to distribute training program materials to public safety

agencies, schools, and community-based organizations throughout the state, and this tax-exempt organization is located at 355 Redondo Avenue, Long Beach, California 90814; and

WHEREAS, To date, the 9-1-1 for Kids educational program has been taught to over 1,000,000 children, ages 4 to 7 years, through the tireless, dedicated efforts of teachers, police officers, firefighters, and community volunteers; and

WHEREAS, 9-1-1 for Kids hopes to provide materials to teach another 500,000 children during 2001; and

WHEREAS, Children who complete the 9-1-1 for Kids classroom educational program will learn what an emergency is for purposes of using the 9-1-1 emergency system, how to place a 9-1-1 emergency call, and what to say to a 9-1-1 dispatcher in case of a police, fire, or medical emergency, and armed with this basic 9-1-1 information, children who complete the 9-1-1 for Kids training program will be able to call for help when they need it for themselves or for others, save lives and property, and avoid costly abuses of the 9-1-1 emergency system; and

WHEREAS, The State 9-1-1 Program, in the Telecommunications Division of the State Department of General Services, has recognized the 9-1-1 for Kids educational program as one of the most effective 9-1-1 emergency system classroom programs available; and

WHEREAS, National Football League star, Tim Brown, the captain of the Oakland Raiders and the 1987 Heisman Trophy winner, serves as the national spokesperson for 9-1-1 for Kids; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby designates the week of May 14, 2001, to May 18, 2001, inclusive, as “9-1-1 for Kids Week” in the State of California, in recognition of the valuable work of the 9-1-1 for Kids program; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 67—Relative to California Small Business Week.

[Filed with Secretary of State May 17, 2001.]

WHEREAS, The President of the United States, by proclamation, will designate the week of May 6, 2001, through May 12, 2001, as national Small Business Week in recognition of the outstanding contributions of the owners of small businesses to our nation; and

WHEREAS, Close to 98 percent of all California business establishments have fewer than 100 employees; and

WHEREAS, About one-half of all California workers are employed in small businesses; and

WHEREAS, There were 230,500 new small business employees in California in 1999; and

WHEREAS, Almost two-thirds of the new jobs created in California in 1999 were in small businesses; and

WHEREAS, More than 109,000 new small business jobs were created in 1999 from the services, manufacturing, construction, real estate, security and commodity brokers, and credit institution industries; and

WHEREAS, California represents approximately 11 percent of the national total of small business establishments and employees; and

WHEREAS, California high technology related products and services attracted 47 percent of the national total of venture capital in 1999, approximately \$16.8 billion; and

WHEREAS, California's small businesses have a vital role in expanding our state's trade relationships with Pacific Rim countries; and

WHEREAS, Small business people possess the dedication and entrepreneurial spirit to develop and market new technologies, thereby bringing more capital into the business market and further strengthening our economy; and

WHEREAS, The innovation, diversity, competitive strength, job generation, and quality of life that small businesses bring to our economy are vital elements of our state's long-term economic health; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 6, 2001, through May 12, 2001, as California Small Business Week, in special recognition of the contributions that the owners of small businesses have made, and will continue to make, in our state; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 56—Relative to foster care.

[Filed with Secretary of State May 21, 2001.]

WHEREAS, More than 110,000 children throughout California are provided essential services through the foster care system each year; and

WHEREAS, Children who cannot live with their biological families because of abuse, neglect, or abandonment require the commitment and nurturing care of foster parents; and

WHEREAS, Foster parents play an essential role in breaking the cycle of child abuse and promoting the reunification of families requiring foster care services; and

WHEREAS, Foster parents contribute greatly to their communities and the state by meeting the vital needs of dependent children; and

WHEREAS, The Members of the California Legislature wish to acknowledge the important role of foster parents and the foster care system; and

WHEREAS, Public and private child welfare agencies throughout California host foster parent appreciation events during the month of May; and

WHEREAS, There remains a critical shortage of foster homes for teenagers, ethnic minorities, infants, and special needs children; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of May 2001 be recognized as “California Foster Care Awareness Month” and that all citizens be urged to give recognition and appreciation to foster parents for the care that they provide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 27—Relative to the India earthquake of 2001.

[Filed with Secretary of State May 24, 2001.]

WHEREAS, On January 26, 2001, an earthquake measuring 7.9 on the Richter scale hit the country of India; and

WHEREAS, An estimated 1,000 buildings were destroyed, with the most damage reported in the Cities of Bhuj, Anjar, and Bhachau; and

WHEREAS, 17,000 men, women and children have been confirmed dead, and an estimated final death toll of 50,000 is expected; and

WHEREAS, Some 73,000 homes have been destroyed, leaving more than 500,000 victims homeless; and

WHEREAS, The Fiji American Civil Rights Association, in association with the Cultural Association of India, Kohinoor, Gujarati

Samaj and Brahaman Smaj and Saharafiji, has created the India Earthquake Relief Fund; and

WHEREAS, The India Earthquake Relief Fund raised more than \$5,000 during its inaugural meeting and has collected approximately \$50,000 to aid in the relief efforts for the earthquake victims; and

WHEREAS, The India Earthquake Relief Fund has set up several fundraising events, such as a “Live Aid” performance and an Indo-American band telethon, has provided interviews on public access television, and has set up collection booths; and

WHEREAS, Funds collected have been forwarded to the central earthquake relief director in Gujarat, India; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature expresses its deepest sympathy for those who died and those who lost loved ones in the earthquake that hit India on January 26, 2001, expresses its hope that the world never forgets this tragedy, and proudly acknowledges the efforts of the India Earthquake Relief Fund; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for distribution.

RESOLUTION CHAPTER 48

Assembly Concurrent Resolution No. 51—Relative to Parents Anonymous, Inc.

[Filed with Secretary of State May 24, 2001.]

WHEREAS, April is National Child Abuse Prevention Month and all Californians need to be made aware of the myriad problems associated with child abuse; and

WHEREAS, Parents Anonymous, Inc., was founded in California in 1970 and is the oldest child abuse prevention and treatment program dedicated to strengthening families; and

WHEREAS, Each year, tens of thousands of parents and their children create long-term positive changes for their families and develop leadership skills to help others through the weekly, mutual support groups of Parents Anonymous; and

WHEREAS, Research confirms that strengthening families is the key to preventing juvenile delinquency; and

WHEREAS, Recent psychological research highlights the importance of positive parent-child interaction during the first three years of life, further supporting early intervention program to prevent

child maltreatment, juvenile delinquency, and other social problems; and

WHEREAS, Research demonstrates that child abuse and neglect are often a precursor to delinquent and adult criminal behavior, and also shows that children who are abused or neglected are 40 percent more likely to engage in delinquency or adult criminal behavior; and

WHEREAS, Child abuse and neglect reports have increased at an alarming rate and child protective services is unable to adequately respond to this crisis; and

WHEREAS, Effective child abuse prevention programs that make child safety a priority by encouraging families to seek help early are needed at the community level, and Parents Anonymous, Inc., is such a program, and should be fostered and encouraged; and

WHEREAS, Parents Anonymous, Inc., has provided specialized program materials, extensive technical assistance, certified training, a new children's program, best practices strategies, and parent leadership training; and

WHEREAS, In 1997, Parents Anonymous, Inc., was selected by the United States Office of Juvenile Justice and Delinquency Prevention (OJJDP) as a national model proven to strengthen families and so to prevent juvenile delinquency, and in partnership with the OJJDP is expanding in select neighborhoods; and

WHEREAS, The OJJDP has produced a special publication on Parents Anonymous, Inc., and has committed to funding a new national outcome study; and

WHEREAS, In recognition of its status as the oldest child abuse and neglect prevention program in America, the United States Congress highlighted only Parents Anonymous, Inc., in the Child Abuse Prevention and Treatment Act of 1996 as an effective program that strengthens families in partnership with communities; and

WHEREAS, Congress also has recognized the expertise of Parents Anonymous, Inc., to train parent leaders in collaboration with professionals, government agencies and community-based organization to more effectively address the needs of families; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends Parents Anonymous, Inc., for its commitment to strengthening families, preventing child abuse, child neglect, and juvenile delinquency for more than 30 years in California and other states in spite of limited resources; and be it further

Resolved, That the Legislature extends to Parents Anonymous, Inc., its best wishes for continued success; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 19—Relative to the California marine transportation system.

[Filed with Secretary of State May 24, 2001.]

WHEREAS, The sovereign State of California is the greatest maritime state in the nation; and

WHEREAS, The California marine transportation system includes ports, harbors, bays, rivers, channels, and canals; and

WHEREAS, The California marine transportation system is an integral part of the United States maritime industries; and

WHEREAS, California ports produce one-third of the value of all waterborne international trade nationwide; and

WHEREAS, The California marine transportation system is a vital component of the California transportation infrastructure; and

WHEREAS, The California marine transportation system is the cornerstone link for California's trade with the Pacific Rim; and

WHEREAS, The California marine transportation system provides Californians with thousands of industry related jobs, such as marine cargo handling, merchant marine officers, pilots and unlicensed crew members, marine construction, shipbuilding and repairing, long distance trucking, refrigerated warehousing and storage, petroleum and bulk chemicals, deep sea transportation of freight and passengers, passenger ferries, barge lines and operators, marine engineering services, and logistics management; and

WHEREAS, The California Maritime Academy, a unique institution of the California State University in the City of Vallejo, helps produce the future leaders of our nation's maritime and transportation industries; with notable impact on logistics, port, shipbuilding, fishing, oil, oceanographic, environmental, and marine engineering organizations that are significant contributors to our national and state economies; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, commencing May 2001, the Legislature hereby proclaims the month of May as California Marine Transportation System Month; and be it further

Resolved, That the California marine transportation system be recognized as a vital component that is integral to the California transportation infrastructure; and be it further

Resolved, That the Legislature promote the funding and programs necessary to the advancement of the California marine transportation system; and be it further

Resolved, That the Legislature support the creation of events recognizing the indispensable role the California marine transportation system plays in the economic and general welfare of the State of California; and be it further

Resolved, That the Legislature intends to make this an annual event and, as a testimonial, declares that appropriate local events may be held commencing in May 2001 and further, that appropriate statewide events shall be held commencing May 2002 and thereafter in recognition of this resolution; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Department of Boating and Waterways, the Department of Fish and Game, the Department of Transportation, the California Transportation Commission, and the State Lands Commission.

RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 44—Relative to Gold Star Mothers Week.

[Filed with Secretary of State May 29, 2001.]

WHEREAS, To bear a Gold Star is to display the loss of one's child to war, as a recognition of the grand sacrifices of our fighting men and women, and to facilitate this acknowledgment there was founded, in the District of Columbia, an organization called the American Gold Star Mothers, originally incorporated on January 5, 1929, and comprised of mothers who had lost a son or daughter in World War I; and

WHEREAS, Eligibility for membership was expanded to include mothers who lost a son or daughter in World War II, the Korean War, the Vietnam War, or the Persian Gulf War; and

WHEREAS, Countless thousands displayed the Gold Star and did acknowledge that their child had helped to secure the blessings of liberty for this and all future generations; and

WHEREAS, In the windows of America can still be seen a shimmering gold star, each representing a child lost but never forgotten.

This candlelit display of a gold star accompanies the loss of ones so cherished and so generous as were our fallen heroes; and

WHEREAS, The purpose of the American Gold Star Mothers is to keep alive and develop the spirit that promoted world service and maintain the ties of fellowship born of that service and to assist and further all patriotic work; and

WHEREAS, To inculcate a sense of individual obligation to the community, state, and nation and to assist veterans of World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf War, and other strategic areas and their dependents in the presentation of claims to the Veterans' Administration, aid in any way the men and women who served and died or were wounded or incapacitated during hostilities, and perpetuate the memory of those whose lives were sacrificed in our wars; and

WHEREAS, To maintain true allegiance to the United States of America, inculcate lessons of patriotism and love of the country in the communities in which we live, inspire respect for the Stars and Stripes in the youth of America, extend needful assistance to all American Gold Star Mothers and, whenever possible, their descendents, and promote peace and good will for the United States and all other nations; and

WHEREAS, Members of the American Gold Star Mothers spend countless hours contributing both time and resources to provide volunteer services for veterans and their family members; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby designate the last Monday in May, and the week following, as "Gold Star Mothers Week," and in this way may Californians be urged to pay heed to the heroic sacrifices of our fallen men and women and of the sacrifices made by their loving parents.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 26—Relative to Cesar Chavez Day.

[Filed with Secretary of State May 29, 2001.]

WHEREAS, On March 31, 1927, a true hero named Cesar Estrada Chavez was born in Yuma, Arizona, to Librado and Juana Chavez and became the second eldest in a family of five children. Cesar Chavez lived his life dedicated to improving the plight of farmworkers through struggle, sacrifice, and abnegation. He founded and led the first

successful farmworkers' union in United States history. He stood for dignity and justice for farmworkers. Today, he remains a symbol of hope to all Californians who find hope and peace in justice; and

WHEREAS, In the 1930's, during the Great Depression, Cesar Chavez' father lost his small farming business and the family went broke. The family became migrant workers and joined some 30,000 workers who followed the crops from Arizona into southern California, then up the length of the Central Valley and back again picking everything from peas to cotton. They lived in tents and other makeshift housing that often lacked a bathroom, electricity, or running water. Schooling for Cesar Chavez was irregular and haphazard. He attended some 30 different schools, often encountered discrimination, and was punished for speaking Spanish; and

WHEREAS, After graduation from the eight grade, Cesar Chavez was forced to quit school and take to the fields in order to help support his family. In 1944, at the age of 17, Cesar Chavez joined the Navy and served in World War II. After he completed his tour of duty, Cesar Chavez returned to California and married Helen Fabela, a woman who shared his dedication to the cause of the farmworker. They lived in San Jose in a tough Mexican neighborhood called "sal si puedes" which translated to "get out if you can," and together raised eight children; and

WHEREAS, As a farmworker, Cesar Chavez experienced firsthand the injustice of working long hours with little pay. Instilled with a sense of justice passed down from his mother, Cesar Chavez made a decision to speak up and fight for a change. He took part in his first strike in protest of low wages and poor working conditions for farmworkers. Although initially unsuccessful, his participation in that first strike was to mark the beginning of a long career in which he fought for improved working and living conditions for farmworkers; and

WHEREAS, In 1952, Cesar Chavez met Fred Ross who was with a group called the Community Services Organization (CSO). Struck by Cesar Chavez' engaging personality and leadership qualities, Fred Ross tapped Cesar Chavez to head voter registration efforts where he successfully registered 4,000 voters. The following year Chavez led organization efforts to establish CSO offices in every major barrio. He eventually spent 10 years with CSO and became general director in 1958. During this time, services were expanded to include citizenship classes, helping members secure driver's licenses, assistance in filling out applications for aid, and securing legal counsel; and

WHEREAS, In 1962, Cesar Chavez resigned his position with the CSO to embark on a bold new undertaking to form a farmworkers' union. He was joined by the great Dolores Huerta and together they became the architects of the National Farm Worker's Union, the forerunner to the present United Farm Workers (UFW); and

WHEREAS, In 1965, Cesar Chavez led a strike of California grape pickers to demand higher wages, and urged all Americans to boycott table grapes as a show of support. The strike included a 340-mile march from Delano to Sacramento in 1966 in which thousands of farmworkers and supporters marched in solidarity. The farmworkers and supporters carried banners with the black eagle with the words “HUELGA” (strike) and “VIVA LA CAUSA” (long live our cause); and

WHEREAS, Cesar Chavez preached nonviolence to the strikers even as they were physically abused by many of those opposed to the grape boycott. In 1968, Cesar Chavez began a fast, in the model of Mahatma Gandhi, to call attention to the migrant workers’ cause. Although his dramatic act did little to solve the immediate problem, it increased public awareness of the conditions under which farmworkers labored. In 1973, the UFW organized a strike for higher wages from lettuce growers, and after many battles an agreement was finally reached in 1977 that gave the UFW the sole right to organize farmworkers; and

WHEREAS, During the 1980’s, Cesar Chavez led the effort to call attention to the health problems of farmworkers caused by the use of certain pesticides on crops; and

WHEREAS, On April 23, 1993, Cesar Estrada Chavez died peacefully in his sleep in San Luis, Arizona. During Cesar Chavez’ funeral, Cardinal Roger M. Mahoney, who celebrated the funeral mass, called Cesar Chavez “a special prophet for the world’s farm workers”; and

WHEREAS, Many declared that the UFW would die without him, but on Cesar Chavez’ birthday, March 31, 1994, under the leadership of his son-in-law Arturo Rodriquez, the UFW marched 343 miles from Delano to Sacramento, echoing Cesar Chavez’ historic 1966 march, and demonstrated that the UFW still worked for farmworkers; and

WHEREAS, In 1990, Mexican President Salinas de Gortari awarded Cesar Chavez, the “El Aquila Azteca” (the Aztec Eagle), Mexico’s highest award presented to people of Mexican heritage who have made major contributions outside of Mexico. He also became the second Mexican American to receive the Presidential Medal of Freedom, the highest civilian honor in the United States, which was presented posthumously to Helen Chavez and her children on August 8, 1994, by President Clinton; and

WHEREAS, In 1994, Cesar Chavez’ family and the officers of the UFW created the Cesar E. Chavez Foundation to inspire current and future generations by promoting the ideals of Cesar Chavez’ life, work, and vision. Communities throughout California and the United States have honored Cesar Chavez by naming parks, children’s centers, streets, and other public works after the leader; and

WHEREAS, Cesar Chavez led by example, giving of himself so that he might help others. His relentless pursuit of the belief that the American dream should be available to all Americans, regardless of race or origin of birth, stands as a monument to our free society. His life and work is not only an inspiration to Latinos, but to working Americans of all nationalities. His legacy lives on in the improved working and living conditions of hundred of thousands of Californians and their families; and

WHEREAS, In the year 2000, the Legislature enacted Senate Bill 984 (Chapter 213 of the Statutes of 2000) to create an annual state holiday on Cesar Chavez' birthday, March 31; this holiday provides all Californians the opportunity to learn from Cesar Chavez' life and provides school children the opportunity to learn through community service; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby recognizes March 31 as the anniversary of the birth of Cesar Chavez, and calls upon all Californians to participate in appropriate observances to remember Cesar Chavez as a symbol of hope and justice to all citizens; and be it further.

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 28—Relative to California Museum Month.

[Filed with Secretary of State May 29, 2001.]

WHEREAS, Museums significantly enhance the quality of life for California citizens; and

WHEREAS, California museums provide their communities with many services and activities that add to and enhance those services and activities provided by the public sector; and

WHEREAS, California is home to over 1300 museums that serve every community and region throughout the state; and

WHEREAS, There is at least one museum in every county of the state and these museums serve a total of over 26 million visitors annually; and

WHEREAS, Museums do important work that help the state meet its obligations to its citizens in the area of education; and

WHEREAS, Museums contribute to formal and informal learning at every stage of life, from the education of children in preschool through secondary school to the continuing education of adults; and

WHEREAS, In 1998, 1.85 million school children participated in organized museum visits and programs in California museums, and 91.2% of California museums had scheduled school visits or school programs; and

WHEREAS, Museums are a significant resource for in-service training of California teachers; and

WHEREAS, Museums act as a repository for California natural and cultural history, and are an important means of making available the best of our society's art, science, history, and culture available to California citizens; and

WHEREAS, Museums contribute significantly to California's economy by providing a huge economic boost to their communities by attracting tourists and local visitors, all of whom create a demand for services; and

WHEREAS, California's museums are a major industry for the state and serve as a source of community pride in a state of rich diversity; and

WHEREAS, Museums are the part of a community that provides a common experience and a safe place that people from all backgrounds can share; and

WHEREAS, California's museums are one of the best bargains around with half of the state's museums providing free admission to adults; and

WHEREAS, The California Association of Museums has served to bring important recognition of the month of May 2001, during which museums will celebrate the diversity of community services they provide by hosting an eclectic array of public programming; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes the important role that museums have in the State of California and proclaims May 2001 as California Museum Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 26—Relative to Mosquito and Vector Control Awareness Week.

[Filed with Secretary of State May 31, 2001.]

WHEREAS, Mosquitoes and other vectors, including but not limited to ticks, Africanized Honey Bees, rats, fleas, and flies, continue to be a

source of public nuisance, human suffering, illness, and death, in California and around the world; and

WHEREAS, Excess numbers of mosquitoes and other vectors reduce enjoyment of outdoor living spaces, both public and private, reduce property values, hinder outdoor work, reduce livestock productivity, and spread diseases of humans, livestock, and wildlife; and

WHEREAS, Mosquitoes and other vectors can disperse or be transported long distances from their sources and are, therefore, a public nuisance and a health risk; and

WHEREAS, Professional mosquito and vector control based on scientific research has made great advances in reducing mosquito and vector populations and the diseases they transmit; and

WHEREAS, Mosquito and vector-borne viruses that can cause human illness or even death have been routinely found in mosquitoes and other vectors in over one half of the counties in California; and

WHEREAS, The *Culex pipiens quinquefasciatus* (the southern house mosquito), a common mosquito found throughout California, may be a vector of the West Nile Virus, which struck New York with deadly force in 1999; and

WHEREAS, Established mosquito and vector-borne diseases such as plague, Lyme disease, and encephalitis, and new and emerging vector-borne diseases such as hantavirus, arenavirus, babesiosis, and ehrlichiosis cause illness and sometimes death every year in California; and

WHEREAS, Mosquito and vector control districts throughout the State of California work closely with the United States Environmental Protection Agency and the State Department of Health Services to reduce pesticide risks to humans, animals, and the environment while protecting human health from mosquito and vector-borne diseases and nuisance attacks; and

WHEREAS, The public's awareness of the health benefits associated with safe, professionally applied mosquito and vector control methods will support these efforts, as well as motivate the public to eliminate mosquito and vector breeding sites on private property; and

WHEREAS, Educational programs are being developed to include schools, civic groups, private industry, and government agencies, in order to meet the public's need for information about mosquito and other vector biology and control; and

WHEREAS, Adequate funding for mosquito and vector control and for surveillance of vector-borne disease organisms is not being provided in many counties; and

WHEREAS, Public awareness can result in reduced production of mosquitoes and other vectors on private, commercial, and public lands by responsible parties, avoidance of the bites of mosquitoes and other

vectors when the risk of disease transmission is high, detection of human cases of mosquito and vector-borne diseases that may be otherwise be misdiagnosed for lack of appropriate laboratory testing, and the formation of mosquito or vector control agencies where needed; and

WHEREAS, Public awareness can result in action to provide adequate funding for existing mosquito and vector control agencies or, in areas where there are no existing controls; and

WHEREAS, “Mosquito and Vector Control Awareness Week” will increase the public’s awareness of the activities of the various mosquito and vector research and control agencies within California, and will highlight the educational programs currently available; and

WHEREAS, The Mosquito and Vector Control Association of California has designated the week of May 21 through 28, 2001, as “Mosquito and Vector Control Awareness Week” in the State of California; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that the week of May 21 through 28, 2001, be designated as Mosquito and Vector Control Awareness Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Health Services.

RESOLUTION CHAPTER 54

Assembly Concurrent Resolution No. 46—Relative to the Korean War Veterans Memorial Highway.

[Filed with Secretary of State May 31, 2001.]

WHEREAS, From June 25, 1950, until July 27, 1953, the United States was involved in a bloody conflict with North Korea and China following the North Korean invasion of South Korea; and

WHEREAS, Of the 1,789,000 Americans that served in Korea for the purpose of preventing the Communist takeover of South Korea, 36,516 Americans died, 103,284 were wounded, 7,245 were prisoners of war, and 8,176 are still unaccounted for; and

WHEREAS, There were 42 Kern County military personnel killed in action in Korea, three died while missing, two died while captured, and six died from wounds, and approximately 8,120 Korean War veterans presently live in Kern County; and

WHEREAS, Thirty-six Korean veterans recently organized as the Korean War Veterans Association (KWVA), Charles N. Bikakis Chapter, P.O. Box 10133, Bakersfield, CA 93389-0133; and

WHEREAS, Active participants of KWVA include Highway Committee Chairmen Michael Sabol and John Cave, representing Jeryl Matthews, President, Bob Friday, 1st Vice President, Bob Castle, 2nd Vice President, Tom Jones, Secretary, Ralph Smith, Treasurer, Gene Dixon, Historian, Isaac Ornelas, MIA/POW Officer, Ed LeLouis, Judge Advocate, James Ledbetter, Chaplain, John Bausano, Advisor, Harvey Ginn, Advisor, Tom Lewis, Publicity Chairman, and members James J. Abel, Samuel L. Barton, Daniel J. Boehm, Raymond Carlson, Billy Ellis, William M. Jackson, Ray M. Johnson Jr., Glenn E. Knox, Humberto Marques, Fred J. Moore, William L. Painter, James R. Parris, Frances Ramirez, Kenneth R. Raymond, James H. Robertson, Jose Rojas, Richard S. Smith, Leroy G. Stone, Walter E. Swanson, Neal T. Vance, Dale R. Wilson, and Joseph D. Yopez; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 99 that is between the northern Kern County line in Delano at County Line Road (J44) and the southern terminus of Route 99, three and one-half miles south of Mettler, is hereby officially designated as the Kern County Korean War Veterans Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 55

Assembly Concurrent Resolution No. 58—Relative to Asian and Pacific Islander American Heritage Month.

[Filed with Secretary of State May 31, 2001.]

WHEREAS, Asian and Pacific Islander Americans have played a critical role in the social, economic, and political development of California throughout its history; and

WHEREAS, Asian and Pacific Islander Americans are one of the fastest growing ethnic populations in California; and

WHEREAS, Asian and Pacific Islander Americans represent over 11 percent of California's population and represent ancestries that include Burmese, Cambodian, Chinese, East Indian, Filipino, Guamanian,

Hawaiian, Hmong, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Singaporean, Thai, Tongan, and Vietnamese; and

WHEREAS, Asian and Pacific Islander American entrepreneurs have led many of California's businesses to the pinnacle of their respective industries; and

WHEREAS, Asian and Pacific Islander American communities throughout California actively promote their cultural heritage and promote cross-cultural understanding; and

WHEREAS, Asian and Pacific Islander Americans will continue to be an important part of California's diverse tapestry of cultures and ideas; and

WHEREAS, Asian and Pacific Islander American immigrants have contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, Asian and Pacific Islander American refugees have revitalized many of California's communities, while bringing in new ideas and economic opportunities; and

WHEREAS, Asian and Pacific Islander American immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families; and

WHEREAS, Asian and Pacific Islander Americans have a proud legacy of service and dedication to the State of California and to the United States of America; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends Asian and Pacific Islander Americans for their notable accomplishments and outstanding service to the State of California, and recognizes the month of May 2001 as Asian and Pacific Islander American Heritage Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 56

Assembly Concurrent Resolution No. 63—Relative to state parks.

[Filed with Secretary of State May 31, 2001.]

WHEREAS, California is home to 266 state parks that facilitate the education, health, and inspiration of California's families by providing high-quality outdoor recreation; and

WHEREAS, California state parks contain the largest and most diverse natural and cultural heritage holdings of any state agency in the country; and

WHEREAS, Over 75 million people annually visit treasures such as redwood, rhododendron, and wildlife reserves; state beaches; recreation and wilderness areas; and reservoirs and historic parks; and

WHEREAS, The California state parks system manages the state's finest coastal wetlands, estuaries, beaches, and dune systems, and collaborates with local communities to invest in urban parks and recreational venues; and

WHEREAS, California state parks comprise nearly 1.3 million acres, with over 280 miles of coastline, 625 miles of lake and river frontage, nearly 18,000 campsites, and over 3,000 miles of hiking, biking, and equestrian trails; and

WHEREAS, California state parks host nearly 500 educational, interpretive, and multicultural events annually; and

WHEREAS, State Parks Month, which is celebrated in the month of May, promotes awareness of the natural environment and increases the use of state parks; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That May 2001 is proclaimed to be State Parks Month, and that the Legislature encourages all Californians to participate in activities held throughout the month of May to commemorate this observance.

RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 6—Relative to Sober Graduation Month.

[Filed with Secretary of State June 4, 2001.]

WHEREAS, The Sober Graduation Program is an effective, antidrunk driving campaign geared towards high school seniors; and

WHEREAS, In 1998, almost 700 drivers between the ages of 15 and 20 years were involved in alcohol-related accidents during the months of May and June; and

WHEREAS, In Los Angeles County alone, 108 young people who had been drinking were involved in accidents during that period; and

WHEREAS, Since the Sober Graduation Program was established, the number of alcohol-related accidents involving young people has dramatically declined; and

WHEREAS, Pupils, teachers, parents, civic groups, law enforcement, and the business community should join together to raise public awareness of alcohol-related deaths and to encourage alcohol and

drug-free graduation celebrations commencing on May 31, 2001, to June 30, 2001; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby designate May 31, 2001, to June 30, 2001, inclusive, as Sober Graduation Month and encourages all Californians to join in this observance and join the Department of the California Highway Patrol in supporting the effort to save the lives of young people through the Sober Graduation Program; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 58

Assembly Concurrent Resolution No. 25—Relative to the Sonny Bono Memorial Freeway.

[Filed with Secretary of State June 4, 2001.]

WHEREAS, The life of Sonny Bono exemplifies the opportunities offered to everyone in the United States; and

WHEREAS, Sonny Bono left his boyhood home in Detroit, Michigan, for Hollywood, California, at a young age to become a star in show business; and

WHEREAS, His quest led him to a laborer's job as a meat truck driver and deliveryman and then in promotions for a record company; and

WHEREAS, Sonny Bono parlayed those jobs into an opportunity to showcase his ability as a showman and entertainer; and

WHEREAS, Those talents eventually led to a career of fame as a recording and television star, enabling him to touch the hearts of millions of people throughout the world; and

WHEREAS, Sonny Bono pursued another dream as a restaurant owner in Palm Springs; and

WHEREAS, His concern on behalf of his community as a businessman led him to public service eventually leading to his election as Mayor of Palm Springs in 1988; and

WHEREAS, As Mayor of Palm Springs, Sonny Bono energized the city and enabled the community to enhance its national and international prominence as a leader in business and tourism; and

WHEREAS, Sonny Bono's public service career eventually led him to the halls of the Congress of the United States in 1994 as the Representative from the Coachella Valley and Western Riverside County areas of southern California; and

WHEREAS, Sonny Bono's leadership ability as a Congressman benefited the Coachella Valley, Western Riverside County, and much of the Inland Empire; and

WHEREAS, Sonny Bono's achievements as a Congressman brought needed national attention to the environmental needs of the Salton Sea; and

WHEREAS, Sonny Bono tirelessly worked on behalf of his constituents bringing the needed federal funding for transportation and infrastructure projects for the Coachella Valley; and

WHEREAS, His efforts to improve transportation led to funding for significant highway improvements throughout the Coachella Valley and Riverside County; and

WHEREAS, Although Sonny Bono's career and life were tragically cut short by an accident, the memories of his leadership and values continue to positively shape progress throughout California; and

WHEREAS, It is fitting that the Legislature of the State of California honors the memory of Congressman Sonny Bono, and conveys the Legislature's appreciation for the Congressman's legacy and life of public service on behalf of California; and

WHEREAS, It would be a fitting tribute to Sonny Bono to name the Coachella Valley portion of Interstate 10 from a point just west of the State Highway 111 cutoff in the Palm Springs area to a point at the bottom of the grade east of the City of Coachella as the Sonny Bono Memorial Freeway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the Coachella Valley portion of Interstate 10, from a point just west of the State Highway 111 cutoff in the Palm Springs area to a point at the bottom of the grade east of the City of Coachella, the Sonny Bono Memorial Freeway in honor and recognition of Sonny Bono; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the author for distribution.

RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 28—Relative to the Peter Hillman Memorial Interchange.

[Filed with Secretary of State June 4, 2001.]

WHEREAS, Peter Hillman was a Deputy United States Marshal serving in the federal Eastern District of California (Fresno) when he was killed in the line of duty; and

WHEREAS, Peter Hillman was a 14-year veteran of the United States Marshal's Service, having entered that service in the federal Northern District of California in 1986 and serving in the Fresno office since 1988; and

WHEREAS, Peter Hillman was fondly known as the "Hillmanator" because of his relentless pursuit of narcotics fugitives throughout Merced and Stanislaus Counties; and

WHEREAS, Peter Hillman was a native of Montana, received a bachelor's degree in criminal justice and sociology from Fresno State University in 1976, and served eight years with the United States Forest Service as a firefighter prior to joining the U.S. Marshal's service; and

WHEREAS, During his career as a United States Marshal, Deputy Hillman took part in many out-of-district special assignments, including, but not limited to, Operation Sunrise, assisting in the Virgin Islands after Hurricane Marilyn, and assisting at the 1996 Olympic Games in Atlanta, Georgia; and

WHEREAS, Peter Hillman served as a dedicated, loyal, and courageous Deputy United States Marshal, gave 110 percent in all he did, had a zest for life and love of the outdoors, and always had a friendly smile to greet everyone, friends and strangers alike; and

WHEREAS, The loss of Deputy Hillman is mourned by the men and women of the United States Marshal's Service and all those who serve in law enforcement; and

WHEREAS, It would be a fitting tribute to Deputy United States Marshal Peter Hillman to name the Herndon Avenue Interchange on State Highway Route 168 in the City of Clovis as the Peter Hillman Memorial Interchange; now, therefore, be it,

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the Bullard Avenue Interchange on State Highway Route 168 in the City of Clovis as the Peter Hillman Memorial Interchange in honor and recognition of Deputy United States Marshal Peter Hillman; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this

special designation and, upon receiving donations from nonstate sources covering the cost, to erect those plaques and markers; and be it further *Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the author of this resolution for distribution.

RESOLUTION CHAPTER 60

Assembly Concurrent Resolution No. 47—Relative to the George Alan Ingalls Memorial Highway.

[Filed with Secretary of State June 4, 2001.]

WHEREAS, George Alan Ingalls was born on March 9, 1946, in Hanford, California; and

WHEREAS, George Alan Ingalls entered into the service of the United States Army at Los Angeles, California, obtained the rank of Specialist Fourth Class, and was assigned to Company A, Second Battalion, Fifth Calvary, First Calvary Division (Airmobile); and

WHEREAS, This courageous, young Californian commenced his tour of duty in Vietnam on July 11, 1966; and

WHEREAS, On April 16, 1967, near Duc Pho, Republic of Vietnam, George Alan Ingalls, in a spontaneous act of great courage, which cost him his own life, threw himself on top of a hand grenade, thereby abating the grenade's full blast and saving the lives of the members of his squad; and

WHEREAS, George Alan Ingalls' gallantry and selfless devotion to his comrades earned him the Medal of Honor which was awarded posthumously on January 30, 1969; and

WHEREAS, On November 11, 2000, American Legion Post 3 of Hanford appropriately honored George Alan Ingalls' mother and family members at the tank memorial in the Hanford Cemetery; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby dedicates the portion of State Highway Route 198 that passes through the City of Hanford between Seventh Avenue and Twelfth Avenue in Hanford, as the George Alan Ingalls Memorial Highway, in memory of George Alan Ingalls, who made the greatest sacrifice a person can make to his community and country; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this

special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 61

Assembly Concurrent Resolution No. 4—Relative to the Stanley L. Van Vleck Memorial Highway.

[Filed with Secretary of State June 7, 2001.]

WHEREAS, Stanley L. Van Vleck was born on December 9, 1920, near Placerville, California; and

WHEREAS, Stanley L. Van Vleck was a third generation California rancher who spent his early childhood years in Pacific House, California, on his family's homestead that was established about 1850; and

WHEREAS, With his parents, Orin and Mabel Van Vleck, Stanley L. Van Vleck moved to their ranch in Sloughhouse, California; and

WHEREAS, Stanley L. Van Vleck excelled at academics and graduated from Elk Grove High School at the age of 16 years; he then attended then Sacramento City Junior College where he served as President of that college's prelaw society; and

WHEREAS, Stanley L. Van Vleck had a long and distinguished career as a rancher in the Sacramento region, and served in many leadership positions in agricultural organizations at the local, state, and national level, including the California Cattlemen's Association, the California Farm Bureau, the National Flying Farmers, and the National Cattlemen's Association; and

WHEREAS, Stanley L. Van Vleck, loved his country and took deep pride in helping those who protect our citizens by allowing the Federal Bureau of Investigation, the California Air National Guard, the California Department of Forestry, the Sacramento County Sheriff's Department, the Sacramento City Police Department, and the Sacramento Life Flight Unit to train on his ranch; and

WHEREAS, During his distinguished lifetime, Stanley L. Van Vleck provided significant philanthropic benefits to the Sacramento area including spearheading the creation of the Cosumnes River School District and serving as the President of that district's governing board for many years; and

WHEREAS, Stanley L. Van Vleck loved sharing his ranch with the entire community by allowing tens of thousands of Boy Scouts, 4-H'ers, Future Farmers of America, local students, California Operating Engineers, recreationists, and families a chance to experience agriculture and open space on his ranch; and

WHEREAS, Stanley L. Van Vleck was a loving father and grandfather to his children Doug, Van, Valerie, and Stan, and to his grandchildren Garrett, Vanessa, Kyle, and Christian; and

WHEREAS, Stanley L. Van Vleck lost his life in an accident while working at his beloved Sloughhouse ranch on September 7, 2000; and

WHEREAS, Stanley L. Van Vleck was widely known and respected by members of his community and is sadly missed by all who knew him; now, therefore, be it

Resolved, That the Legislature hereby dedicates the portion of State Highway Route 16 that is between Dillard Road in Sacramento County and the Amador County line as the Stanley L. Van Vleck Memorial Highway, in memory of Stanley L. Van Vleck, who served agriculture and his community so well; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 62

Assembly Concurrent Resolution No. 43—Relative to the Merchant Marine.

[Filed with Secretary of State June 7, 2001.]

WHEREAS, The Merchant Marine has faithfully served our country in times of war and peace, transporting life and cargo to every corner of the world; and

WHEREAS, The Merchant Marine has helped win wars and maintain peace by providing necessary materials, food, and supplies to assist many nations in rebuilding their countries and economies; and

WHEREAS, During World War II, the Merchant Marine transported troops, and delivered 75 percent of all military equipment and supplies to battlefronts throughout the world in the face of attacks by the enemy and through violent seas; and

WHEREAS, In doing so, 6,835 were killed, over 11,000 wounded, and 604 taken as prisoners of war, of whom 61 died in POW camps; and

WHEREAS, The Merchant Marine contribution to the American Revolution, the War of 1812, World Wars I and II, the Korean War, the Vietnam War, and all other military and human relief efforts should be made known to all Americans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby designate June 11 to June 17, 2001, as Merchant Marine Remembrance Week, and encourages all Californians to join in this observance; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 63

Assembly Concurrent Resolution No. 70—Relative to elder abuse prevention.

[Filed with Secretary of State June 11, 2001.]

WHEREAS, Older adults who are not able to live independently may be particularly vulnerable to mistreatment; and

WHEREAS, Elder abuse is prevalent in the United States with approximately one million cases occurring annually; and

WHEREAS, Reported cases of adult abuse to adult protective agencies has dramatically increased by 150 percent during the period of 1986 to 1996; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature designates the Month of May 2001 as Elder Abuse Prevention Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 78—Relative to National Flag Day.

[Filed with Secretary of State June 11, 2001.]

WHEREAS, By act of the Continental Congress of the United States, dated June 14, 1777, the first official flag of the United States was adopted; and

WHEREAS, By act of Congress dated August 3, 1949, June 14 of each year was officially designated as “National Flag Day”; and

WHEREAS, The Congress has requested the President to issue annually a proclamation designating the week in which June 14 occurs as “National Flag Week”; and

WHEREAS, On December 8, 1982, the National Flag Day Foundation was chartered to conduct educational programs and to encourage all Americans to pause for the pledge of allegiance to the flag as part of the celebration of National Flag Day throughout the nation; and

WHEREAS, By act of Congress, dated June 20, 1985, Public Law 99-54, was passed to have the Pause for the Pledge of Allegiance as part of the celebration of National Flag Day throughout the nation; and

WHEREAS, Flag Day celebrates our nation’s symbol of unity, a democracy in a republic, and stands for our country’s devotion to freedom, to the rule of law, and to equal rights; and

WHEREAS, Since the founding of our nation the flag has held a unique place in the hearts of those brave men and women who have served in our nation’s armed forces, whereby in each of our nation’s wars examples may be found of soldiers offering their lives not only in defense of our nation, but also in honor of our flag and the principles it embodies; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Thursday, June 14, 2001, should be designated as Flag Day of the State of California; and be it further

Resolved, That the Legislature urges all citizens of the State of California to pause at 4 p.m., on June 14, 2001, for the 22nd annual national Pause for the Pledge of Allegiance and join all Americans in reciting the Pledge of Allegiance to the Flag of the United States of America; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California, and to the author for appropriate distribution.

RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 22—Relative to child abuse.

[Filed with Secretary of State June 11, 2001.]

WHEREAS, Child abuse and neglect continue to pose a serious threat to our nation's children; and

WHEREAS, In 1996, more than 3,000,000 children were reported to child protective agencies in the United States as having suffered abuse and neglect; and

WHEREAS, It is estimated that for every three dollars spent on child abuse and neglect, at least six dollars are saved that might be spent on child welfare services, special education services, medical care, foster care, counseling, and the housing of juvenile offenders; and

WHEREAS, Child abuse and neglect is a community problem and finding solutions depends on the involvement of people throughout the community; and

WHEREAS, The first organized statewide Blue Ribbon Campaign was originated in Norfolk, Virginia by the grandmother of Bubba Dickinson, a child who was murdered by his mother's abusive boyfriend; and

WHEREAS, In recent years, the National Committee to Prevent Child Abuse, the California chapter and other local affiliates, United States military bases, and other groups have organized Blue Ribbon Campaigns to increase public awareness of child abuse and to promote ways to prevent child abuse; and

WHEREAS, The National Committee to Prevent Child Abuse, in all its forms, has proclaimed April as National Child Abuse Prevention Month; and

WHEREAS, Blue ribbons are displayed to increase awareness of child abuse and as a strategy for Child Abuse Prevention Month; and

WHEREAS, This year's campaign is entitled "Parents Nurture, Kids Blossom" which recognizes that the nurturing of our children is an essential element to the well-being of society and that April is a fitting month to recognize this growth and nurturing; and

WHEREAS, The flexibility of this program offers numerous opportunities to be innovative and to create partnerships within business, professional, and community organizations; and

WHEREAS, The Senate and the Assembly encourage the community to work together for youth-serving prevention programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature does hereby acknowledge the month of April 2001, as Child Abuse Prevention Month and encourage the people of the State of California to support child abuse prevention activities in their communities and schools during that month and throughout the year; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 66

Assembly Joint Resolution No. 3—Relative to teachers.

[Filed with Secretary of State June 21, 2001.]

WHEREAS, The State Teachers' Retirement System has a higher contribution rate and better benefits than the Social Security system; and

WHEREAS, The State Teachers' Retirement System is not coordinated with the federal Social Security system; and

WHEREAS, The Social Security Act includes two offsets, the Government Pension Offset and the Windfall Elimination Provision, that reduce the Social Security benefits payable to persons who are entitled to benefits under other retirement systems, under certain conditions; and

WHEREAS, These provisions penalize individuals who move from private sector employment to teaching; and

WHEREAS, California has a significant teacher shortage and requires more than 16,000 new teachers per year to meet enrollment growth needs as well as retirement replacement; and

WHEREAS, California currently has some schools where more than 60 percent of the new teachers are not credentialed because of this teacher shortage; and

WHEREAS, Every child should have the opportunity to have a fully credentialed teacher in his or her classroom, but the Social Security Act offsets limit the number of fully credentialed teachers in the classroom by penalizing individuals who change from private to public employment; and

WHEREAS, The recruitment and retention of teachers from other states who are entitled to Social Security upon retirement is also limited and restricted by these offsets; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the Congress of the United States to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act, and further, the Legislature of the State of California requests President George W. Bush to sign that legislation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the

Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 67

Assembly Joint Resolution No. 5—Relative to the United States Coast Guard.

[Filed with Secretary of State June 21, 2001.]

WHEREAS, The United States Coast Guard is a military, multimission, maritime service that has answered the calls of America continuously for over 210 years; and

WHEREAS, Over that history the Coast Guard's roles as lifesavers and guardians of the sea have remained constant, while their missions have evolved and expanded with a growing nation; and

WHEREAS, The Coast Guard mission is to protect the American public's most basic need, our safety and security, the environment, and our economy; and

WHEREAS, The Coast Guard responds to more than 50,000 calls for assistance and saves thousands of lives and billions of dollars in property; and

WHEREAS, The Coast Guard's five operating goals: safety; protection of natural resources; mobility; maritime security; and national defense, define the focus of the Coast Guard's service and enable it to touch everyone in the United States; and

WHEREAS, The goal of safety is pursued primarily through its search and rescue and marine safety missions; and

WHEREAS, No other government agency or private organization has the extensive inventory of assets and expertise to conduct search and rescue of both recreational boaters as well as commercial mariners, from the lakes, rivers, and nearshore areas to the high seas; and

WHEREAS, The Coast Guard provides the first line of defense in protecting the maritime environment through the marine safety program, ensuring the safe commercial transport of passengers, cargo, and oil through our waters, and by guarding our maritime borders from incursions from foreign fishing vessels; and

WHEREAS, The Coast Guard serves as a global model of efficient military, multimission, maritime service for the emerging coast guards of the world and helps friendly countries become positive forces of peace and stability, promoting democracy and the rule of law; and

WHEREAS, Coast Guard men and women are a highly motivated group of people who are committed to providing essential and valuable service to the American public; and

WHEREAS, The Coast Guard military structure, law enforcement authority, and humanitarian functions make the Coast Guard a unique arm of national security enabling it to support broad national goals; and

WHEREAS, The Coast Guard is well known for being the first to reach the scene when maritime disaster strikes, and continues to be tasked with protecting our waters from pollution, our borders from drug smuggling, and our fisheries from overharvest as well as additional assignments that stretch its people and resources thin; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State California urges the President and Congress of the United States to fully fund the Coast Guard's operational readiness and recapitalization requirements to ensure this humanitarian arm of our National Security remains Semper Paratus through the 21st century; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States and all members of Congress of the United States.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 53—Relative to business community involvement with public education.

[Filed with Secretary of State June 22, 2001.]

WHEREAS, The public elementary and secondary schools, and community colleges of the state are the institutions that must prepare the workforce for satisfying and productive lives in the larger community, and for success in specific careers; and

WHEREAS, The private sector provides young people graduating from the state's public schools and community colleges with jobs and career opportunities and has a significant interest in the successful operation of the schools; and

WHEREAS, The California Partners in Education organization, through its leadership, has proclaimed that the organization will raise the awareness of business-education partnerships and their positive benefits to schools, community colleges, and businesses throughout California; and

WHEREAS, The business community, through the leadership of various organizations, should encourage a new and deeper commitment to education by making talent and resources available to schools and community colleges; and

WHEREAS, A number of business organizations have specifically chosen to make talent and resources available to schools and community colleges through a variety of school-business partnerships that match a particular business organization with a particular school or community college, bring business employees into the schools and colleges to work with teachers and instructors and students, and involve donations of materials and equipment; and

WHEREAS, This type of business community involvement with the public education fosters many benefits for students and the community; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the business community to expand school-business partnership activities to as many schools and community colleges as possible, and that the Legislature requests that school administrators, teachers, and instructors of the elementary and secondary schools and community colleges of the state cooperate in the development of school-business partnership programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Education and that the State Department of Education disseminate this resolution to school districts, community colleges, commerce, and other agencies and organizations interested in fostering cooperation between elementary and secondary schools, community colleges, and the business community.

RESOLUTION CHAPTER 69

Assembly Concurrent Resolution No. 85—Relative to Bone Marrow Registration and Testing Day.

[Filed with Secretary of State June 22, 2001.]

WHEREAS, Saturday, June 23, 2001, is Bone Marrow Registration and Testing Day, a day dedicated to strengthening the National Bone Marrow Donor Registry Program to increase its capacity and outreach in order to save as many lives as possible; and

WHEREAS, Bone marrow transplantation, once considered to be a last resort in the treatment of persons with leukemia, is now being successfully performed on persons with other forms of cancer and other life-threatening illnesses; and

WHEREAS, Bone marrow transplantation has become an accepted mode of treatment for over 60 identified life-threatening diseases; and

WHEREAS, Approximately 70 percent of patients who need bone marrow transplants do not have a family member who matches suitably to donate the needed marrow; and

WHEREAS, More than 11,000 individuals have donated bone marrow for unrelated patients since the National Bone Marrow Donor Registry Program began operation in 1987; and

WHEREAS, There are almost 4,000 potential bone marrow recipients searching the National Bone Marrow Donor Registry Program on a daily basis for a suitable donor match; and

WHEREAS, Minority patients face greater odds in finding a suitable donor match in that very few minorities have registered with the National Bone Marrow Donor Registry Program, thereby resulting in a disproportionate number of minority patients left untreated for a life-threatening disease that could otherwise be treated with a bone marrow transplant; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members designate Saturday, June 23, 2001, as Bone Marrow Registration and Testing Day, and urge all Californians to register with the National Bone Marrow Donor Registry Program in order to increase the number of potential matches for all persons who are in need of a bone marrow transplant.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 23—Relative to religious freedom in Vietnam.

[Filed with Secretary of State June 27, 2001.]

WHEREAS, The United States Department of State and international human rights organizations have reported that the Government of the Socialist Republic of Vietnam continues to restrict unregistered religious activities and persecutes citizens on the basis of their religious affiliation through arbitrary arrests and detention, harassment, physical abuse, censorship, and the denial of the right of free association and religious worship; and

WHEREAS, The United States Department of State's Annual Report on International Religious Freedom for 2000 on Vietnam estimates that there are more than 30 religious detainees and religious prisoners but that the number is difficult to verify with any precision because of the secrecy surrounding the arrest, detention, and release process; and

WHEREAS, The Vietnam government's tactics include confiscation of church property, imprisonment of clerics and followers, restriction of church activities, including the right to ordain, publish written materials, or perform social services functions; and

WHEREAS, The Government of the Socialist Republic of Vietnam systematically violates the International Covenant on Civil and Political Rights in contravention of its status as a signatory to that agreement; and

WHEREAS, The Vietnamese American Interfaith Council which represents Catholics, Baptists, Buddhists, Cao Dai, and Hoa Hao, brought together hundreds of residents and local political and religious leaders in Westminister, California on January 6, 2001, to call for religious freedom in the Socialist Republic of Vietnam; and

WHEREAS, The Vietnam government's behavior toward religion in general and the Catholic Church in particular, was demonstrated as recently as December 2000; Father Tadeus Nguyen Van Ly and others were harassed and attacked; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California supports religious freedom for the people of the Socialist Republic of Vietnam, and recommends that the United States Congress demand that the government of that country release all religious prisoners, and immediately cease the harassment, detention, physical abuse, and imprisonment of all Vietnamese citizens who have exercised their legitimate rights to freedom of belief, expression, association, and religious worship; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 25—Relative to the Alameda Corridor East Project.

[Filed with Secretary of State July 3, 2001.]

WHEREAS, The completion of the Alameda Corridor East Project in 2002 will increase train traffic through the Inland Empire by 120 percent; and

WHEREAS, The goal of the Alameda Corridor East Project is to ease the effects of the increased train traffic from downtown Los Angeles to the Colton Yards in the City of San Bernardino; and

WHEREAS, This goal enjoys unanimous, bipartisan support from local, state, and federal officials; and

WHEREAS, The Alameda Corridor East Project will reduce the amount of time residents spend at rail crossings by creating grade separations; and

WHEREAS, The Alameda Corridor East Project stops 221 tons of air pollutants from being emitted annually into the region; and

WHEREAS, The Alameda Corridor East Project is projected to create 192,000 jobs in the San Gabriel Valley/Inland Empire by 2020; and

WHEREAS, Assembly Bill No. 2928 of the 1999–00 Regular Session appropriates \$95 million to San Bernardino County to mitigate the impacts of the Alameda Corridor East Project; and

WHEREAS, The San Bernardino Associated Governments has approved the use of this money exclusively for grade separations, thereby assisting local governments to fund the design and construction of grade separations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature commends the work of the San Bernardino Associated Governments in facilitating the Alameda Corridor East Project and, thereby, contributing to the continued growth in the national, state, and local economy through job creation and expanded trade to benefit all residents of San Bernardino County.

RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 22—Relative to the Model Curriculum on Human Rights and Genocide.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, The state has adopted legislation that requires the State Department of Education to develop a model curriculum on human rights and genocide and to make the curriculum available to teachers in the state to utilize in classrooms; and

WHEREAS, This model curriculum on human rights and genocide served as an exemplary educational product demonstrating again the state's leadership in forging new vistas in education; and

WHEREAS, Teachers across the state, as well as across the nation, have been using the model curriculum with praise; and

WHEREAS, The state appropriated \$99,000 in the Budget Act of 2000 for the reprinting and distribution of the model curriculum on human rights and genocide; and

WHEREAS, The model curriculum on human rights and genocide has been reissued by the State Board of Education; and

WHEREAS, The State Board of Education has announced that the model curriculum on human rights and genocide is now available for distribution to educators around the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commends the State Board of Education and the State Department of Education for its swift and prompt action in developing the model curriculum on human rights and genocide and making it available for distribution; and be it further

Resolved, That the Legislature recommends that the State Department of Education issue proper notification to school districts throughout the state regarding the availability of the model curriculum on human rights and genocide; and be it further

Resolved, That the Legislature recommends that the State Department of Education and school districts convene workshops and teacher training seminars to introduce state educators to the curriculum; and be it further

Resolved, That teachers throughout the state be encouraged to utilize the exemplary curriculum to teach the millions of state pupils about human rights and genocide.

RESOLUTION CHAPTER 73

Assembly Concurrent Resolution No. 68—Relative to Cure Children's Cancer Week.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, One in every 330 children in the United States develops cancer before the age of 19 years, decisively making cancer the leading disease afflicting our youth today; and

WHEREAS, While much progress in the development of effective new treatments and cures for cancer have been made in the past three decades, the rate of cancer among children is now on the rise and there are still many types of childhood cancer that have not yet yielded to research; and

WHEREAS, Since its founding in 1982, the Pediatric Cancer Research Foundation has been dedicated to the mission of improving the care, quality of life, and survival rate of children with malignant diseases, and has raised over \$10 million for cancer research activities; and

WHEREAS, This nonprofit organization was founded by parents, doctors, friends, and business and community leaders who joined forces

to translate laboratory research into immediate treatment for children with cancer; and

WHEREAS. The Pediatric Cancer Research Foundation provides over \$1.5 million each year for cancer research to the University of California, Irvine; Children's Hospital of Orange County; Children's Hospital of Los Angeles; the University of California, Los Angeles; Children's Hospital of New York; Columbia University ; and the National Marrow Donor Program; and

WHEREAS, During the week of July 9 to July 15, 2001, the Pediatric Cancer Research Foundation will host a variety of fundraising events and activities to raise community awareness and encourage participation in the fight against children's cancer; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares July 9 to July 15, 2001, as Cure Children's Cancer Week in the State of California.

RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 71—Relative to Lake and Reservoir Appreciation Week.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, The State of California has more than 200 lakes and reservoirs within its boundaries; and

WHEREAS, Lakes and reservoirs attract millions of visitors and vacationers each day, providing substantial economic benefits to local businesses, municipal governments, and local tourist industries; and

WHEREAS, Lakes and reservoirs provide water for many beneficial public uses, including municipal, industrial, and agricultural uses, and also provide recreational, environmental, and aesthetic benefits to the public; and

WHEREAS, These uses and benefits of lakes and reservoirs make a significant contribution to the quality of life for the residents of California; and

WHEREAS, Lakes and reservoirs deserve public acknowledgement for the important contributions they make to the quality of life for the residents of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, annually commencing July 2001, the first week of July that includes both a weekend and July 4th be declared Lake and Reservoir Appreciation Week, to honor the lakes and reservoirs of the State of California; and be it further

Resolved, That the residents of California are encouraged by the Legislature to take note of the observance and to honor the lakes and reservoirs of the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 75

Assembly Concurrent Resolution No. 76—Relative to California Safety Month.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, According to the National Safety Council, in 1999, about 14,500,000 people nationwide suffered disabling injuries in the home and in public places, and about 52,000 people died from injuries, an alarming 21 percent increase from the 43,000 deaths due to injury in 1992; and

WHEREAS, In 1999, 3.8 out of every 100,000 workers, or 5,110 total workers nationwide, died as a result of an unintentional injury in the workplace; and

WHEREAS, Motor vehicle fatalities totaled an unconscionable 40,800 in 1999; and

WHEREAS, Despite efforts to improve safety, including advancements in technology, and legislation intended to create a safer environment for Americans, the unintentional-injury death toll continues to rise; and

WHEREAS, According to the Bicycle Helmet Safety Institute, head injuries cause 75 percent of the estimated 900 deaths resulting from bicycle accidents each year, and wearing a bicycle helmet reduces the risk of serious head and brain injury due to an accident by 85 percent; and

WHEREAS, Brain surgeons and other doctors nationwide agree that wearing bicycle helmets can save lives; and

WHEREAS, More than 700,000 persons need hospital emergency room treatment each year for injuries related to skateboarding; and

WHEREAS, According to the Brain Injury Association, about 82,000 people suffer brain injuries each year while playing sports; and

WHEREAS, Injuries to persons riding scooters has increased dramatically during the past two years; and

WHEREAS, The summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on safety issues; and

WHEREAS, Preventing unintentional injuries and deaths requires the efforts and cooperation of all levels of government, private associations, and members of the public; and

WHEREAS, The National Safety Council has declared June 2001 to be National Safety Month and has encouraged states to similarly observe that month and focus on safety issues; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature of the State of California recognizes June 2001 as California Safety Month; and be it further

Resolved, That the Legislature encourages all Californians to practice and promote increased safety while engaging in recreation, work, and other activities in their homes, in the workplace, at school, on streets and highways, and in other public and private places; and be it further

Resolved, That the Legislature encourages all public agencies, community organizations, and other groups to distribute educational information, conduct programs, and engage in other appropriate activities to promote safety methods and practices among all Californians.

RESOLUTION CHAPTER 76

Assembly Joint Resolution No. 4—Relative to energy produced by biomass-to-energy facilities.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, California is suffering an energy crisis during the winter of 2001 that threatens to adversely affect the health and safety of Californians through the summer of 2001; and

WHEREAS, Each year in California about 80 million tons of biomass waste are generated from municipal, industrial, agricultural, forestry, and government operations. Most of these materials are currently disposed of via landfills or open-air burning instead of being used for clean energy production; and

WHEREAS, California's biomass-to-energy industry provides a safe and environmentally sound means of converting organic wastes to green energy in a renewable cycle; and

WHEREAS, At least 14 of California's 29 biomass-to-energy facilities depend on wood waste derived from fire hazard reduction,

thinning, and forest product manufacturing activities for their fuel supply; and

WHEREAS, Combined, these facilities represent a generating capacity exceeding 260 megawatts, which is enough electricity to serve the needs of more than 300,000 households; and

WHEREAS, It is in the general interest of the state to encourage the continued conversion of biomass-to-energy power generation; and

WHEREAS, Approximately 37 percent of California is comprised of public and private forest lands with 54 percent of those forest lands owned by the federal government; and

WHEREAS, The long-term viability of green biomass-to-energy power generation is dependent on a reliable and adequate biomass waste fuel supply; and

WHEREAS, The unanimous passage of Assembly Joint Resolution No. 69 by the California State Legislature in 2000, called for the establishment of a cohesive strategy to reduce the overabundance of forest fuels and high risk of catastrophic wildfire; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That in the interest of ensuring the long-term viability of green biomass-to-energy power generation in our state, the Legislature of the State of California hereby respectfully memorializes the United States Forest Service, the Congress, and the President of the United States to recognize the importance of the biomass industry in California, and to undertake discrete experiments and pilot projects that will reduce fuel loading in the Sierra Nevada and elsewhere in California while at the same time exploring a variety of new generation and fuel transport techniques that are ecologically sound and that are, or will become, cost-effective both for the generation of electricity and the reduction of fire risk ; and be it further

Resolved, That the Legislature of the State of California hereby respectfully memorializes the United States Forest Service, Bureau of Land Management, National Park Service, and Environmental Protection Agency to recognize environmental benefits including improved air quality, decreased global-warming gases, and reduced threat of catastrophic forest fires that energy production from biomass waste can provide; and be it further

Resolved, That the Legislature of the State of California, in the interest of public health and safety, hereby respectfully memorializes the Congress to encourage the continued operation of the existing biomass-to-energy industry by taking the reasonable measures necessary, including the consideration of tax incentives, to increase the availability and reduce the cost of biomass wastes diverted to powerplants for use as renewable energy or fuels; and be it further

Resolved, That the Legislature of the State of California hereby respectfully memorializes the United States Forest Service to utilize an appropriate mix of fire suppression activities and forest management methodologies, including selective thinning, selective harvesting, grazing, the removal of excessive ground fuels, and small-scale prescribed burns, including increased private, local, and state contracts for prefire treatments on lands in the Sierra Nevada national forests of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives of the United States, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Environmental Protection Agency, the Chief of the United States Forest Service, the Director of the National Park Service, the Director of the Bureau of Land Management, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 77

Assembly Joint Resolution No. 16—Relative to the Fourth of July.

[Filed with Secretary of State July 5, 2001.]

WHEREAS, On July 4, 1776, the Continental Congress issued an unanimous pronouncement of the 13 colonies declaring their collective independence from Great Britain; and

WHEREAS, In enunciating the colonists' rationale for seeking their independence, the Declaration of Independence drew on the philosophical underpinnings of the Age of Enlightenment; and

WHEREAS, The Declaration of Independence proclaimed "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness"; and

WHEREAS, In declaring their independence, the 13 colonies articulated the concept that governments derive their powers from the consent of the governed and that those powers not specifically granted to the government are reserved by the people; and

WHEREAS, The United States government and state governments have often failed to adhere to these principles, propagating various policies that deprive individuals and groups of basic civil rights and liberties enjoyed by other Americans; and

WHEREAS, The principles espoused in the Declaration of Independence have led Americans and people the world over to challenge the injustices and inequalities of their respective societies; and

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California recognizes July 4, 2001, as the 225th anniversary of the Declaration of Independence and the founding of the United States; and be it further

Resolved, That on the 225th anniversary of the Declaration of Independence, the peoples and governments of the United States continue their efforts to realize the fundamental principles pronounced in that document; and be it further

Resolved, That the United States work to further international respect and observance of the inherent rights of individuals throughout the world; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Senate Concurrent Resolution No. 13—Relative to the California Law Revision Commission.

[Filed with Secretary of State July 10, 2001.]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature that are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 2000 and 2001, recommends continued study or modification of 19 topics, all of which the Legislature has previously authorized or directed the commission to study; and

WHEREAS, The commission, in its annual report covering its activities for 2000 and 2001, recommends removal of one topic, which the Legislature has previously authorized or directed the commission to study and which the commission either has completed study of or found to be no longer appropriate for commission study; and

WHEREAS, The commission, in its annual report covering its activities for 2000 and 2001, recommends addition of one new topic to its calendar; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study, as modified:

(1) Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters;

(2) Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code, and related matters;

(3) Whether the law should be revised that relates to real and personal property including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, powers of termination, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon assignment, subletting, termination, or abandonment of a lease and related matters;

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code;

(5) Whether the law relating to offers of compromise should be revised;

(6) Whether the law relating to discovery in civil cases should be revised;

(7) Whether the acts governing special assessments for public improvement should be simplified and unified;

(8) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

(9) Whether the Evidence Code should be revised;

(10) Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised;

(11) Whether there should be changes to administrative law;

(12) Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised;

(13) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California;

(14) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification;

(15) Whether the law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters;

(16) Whether the law governing common interest housing developments should be revised to clarify the law, eliminate unnecessary or obsolete provisions, consolidate existing statutes in one place in the codes, establish a clear, consistent, and unified policy with regard to formation and management of these developments and transaction of real property interests located within them, and to determine to what extent they should be subject to regulation;

(17) Whether the statutes of limitation for legal malpractice actions should be revised to recognize equitable tolling or other adjustment for the circumstances of simultaneous litigation, and related matters;

(18) Whether the law governing disclosure of public records and the law governing protection of privacy in public records should be revised to better coordinate them, including consolidation and clarification of the scope of required disclosure and creation of a single set of disclosure procedures, to provide appropriate enforcement mechanisms, and to ensure that the law governing disclosure of public records adequately treats electronic information, and related matters;

(19) Whether the law governing criminal sentencing should be revised, nonsubstantively, to reorganize and clarify the sentencing procedure statutes in order to make them more logical and understandable; and be it further

Resolved, That the Legislature approves removal of the topic listed below from the calendar of the California Law Revision Commission:

Whether the laws within various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes; and be it further

Resolved, That the Legislature approves for study the California Law Revision Commission the new topic listed below:

Whether the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and the Mitigation Fee Act (Chapter 5 (commencing with Section 66000) Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7 of the Government Code) should be revised to improve their organization, resolve inconsistencies, clarify and rationalize provisions, and related matters; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 79

Senate Concurrent Resolution No. 14—Relative to the National Purple Heart Trail.

[Filed with Secretary of State July 10, 2001.]

WHEREAS, The Military Order of the Purple Heart is working to establish a national commemorative trail for recipients of the Purple Heart medal, which honors veterans who were wounded in combat; and

WHEREAS, All states in the union will designate highways for inclusion in the commemorative trail, and all of the designated highways will be interconnected to form the National Purple Heart Trail; and

WHEREAS, The commemorative trail in the states bordering California will include Interstate Highway Route 5 and Interstate Highway Route 80 to the point where those highways reach the California state line; and

WHEREAS, It now falls to California to designate its highway selections for connection to the National Purple Heart Trail; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portions of Interstate Highway Route 5 and Interstate Highway Route 80 within California are hereby officially designated as California's selections for inclusion in the National Purple Heart Trail; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation and to the California Department for the Military Order of the Purple Heart.

RESOLUTION CHAPTER 80

Senate Concurrent Resolution No. 18—Relative to the Earle W. Wrieden Memorial Highway.

[Filed with Secretary of State July 10, 2001.]

WHEREAS, Earle W. Wrieden was born to Emma and John Wrieden in Middletown, California on February 8, 1910, and, except for one year in Berkeley, lived most of his life in Middletown; and

WHEREAS, Earle Wrieden and his wife, Herta, were married on July 9, 1939, and had a son, John, now deceased, and a daughter, Lynn; and

WHEREAS, Earle Wrieden was appointed to the Lake County Board of Supervisors in 1949, where he served for 24 years and where he was instrumental in many changes, advances, and improvements for the people of Middletown, Lake County, and northern California; and

WHEREAS, Earle Wrieden was heavily involved in water issues in Lake County, especially relating to Cache Creek and Putah Creek; and

WHEREAS, Earle Wrieden's prime interest was in roads, including securing funds for the construction and maintenance of county roads and facilitating the adoption of highly traveled county roads into the state highway system; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 29 in Lake County that is between the Napa county line and State Highway Route 175 is hereby officially designated the Earle W. Wrieden Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 81

Senate Concurrent Resolution No. 36—Relative to the Stanley Mosk Library and Courts Building.

[Filed with Secretary of State July 10, 2001.]

WHEREAS, Justice Stanley Mosk was born September 4, 1912, in San Antonio, Texas, and was educated in the public schools of Rockford, Illinois; and

WHEREAS, Justice Stanley Mosk graduated from the University of Chicago, completed two years of law school at the University of Chicago, and received his law degree from Southwestern University in Los Angeles, California; and

WHEREAS, Justice Stanley Mosk has been a Californian since 1933; and

WHEREAS, Justice Stanley Mosk was admitted to the State Bar of California in 1935; and

WHEREAS, From 1939 to 1942, Justice Stanley Mosk served as Executive Secretary and Legal Advisor to Governor Culbert Olson; and

WHEREAS, In 1942, Governor Culbert Olson appointed Justice Stanley Mosk, then 30 years of age, to the Los Angeles County Superior Court, making him the youngest superior court judge in the State of California; and

WHEREAS, Justice Stanley Mosk, after serving in the Coast Guard Temporary Reserve in the early years of World War II, left the bench of the Los Angeles County Superior Court to enlist in the Army, where he served his country until the end of the war; and

WHEREAS, After World War II, Justice Stanley Mosk returned to the bench of the Los Angeles County Superior Court where he continued to serve until 1958. As a jurist of the Los Angeles County Superior Court, Justice Stanley Mosk distinguished himself in 1947 by striking down racially restrictive real estate covenants one year before the United States Supreme Court found those covenants to be unconstitutional; and

WHEREAS, Justice Stanley Mosk was elected to the position of Attorney General of California in 1958 by a margin of over one million votes; and

WHEREAS, During Justice Stanley Mosk's tenure from 1959 to 1964 as California's Attorney General, he issued nearly 2,000 written opinions, was instrumental in forcing the Professional Golfers Association to end its "whites only" clause, appeared before the United States Supreme Court representing California in the Arizona v. California water case, served on 10 boards and commissions, reorganized the Attorney General's office, and authored some of California's most constructive legislative proposals for the crime and

law enforcement professions, including the measure that created the Commission on Peace Officers' Standards and Training; and

WHEREAS, Justice Stanley Mosk, just weeks prior to his appointment to the California Supreme Court bench was described by Senator Ervin of North Carolina as "one of the finest constitutional lawyers in the United States"; and

WHEREAS, On August 18, 1964, Justice Stanley Mosk was appointed to the California Supreme Court by Governor Pat Brown, a position he held until his passing on June 19, 2001. Justice Stanley Mosk's tenure of 36 years and 10 months on the California Supreme Court bench made him the longest serving justice in this state; and

WHEREAS, While serving on the bench of the California Supreme Court, Justice Stanley Mosk was committed to protecting and expanding the rights of individuals, striving to ensure that all persons were treated equally under the law, and was the pioneer of the legal theory of "independent state grounds," a theory based on the principle that rights of individuals guaranteed by the Bill of Rights may be expanded under a state's constitution. Justice Stanley Mosk authored opinions that barred prosecutors from using racially discriminatory preemptive challenges in selecting a jury, struck down the University of California's use of racial quotas in its admission policies, and was the lone dissenter in a decision that permitted prosecutors to target gang members with civil injunctions. While personally opposed to the death penalty, Justice Stanley Mosk, nevertheless followed the letter of the law when faced with appeals of capital punishment; and

WHEREAS, In 1999, Justice Stanley Mosk became the seventh recipient of the California State Bar's prestigious Bernard E. Witkin Medal in recognition of his contributions to the quality of justice and legal scholarship in California. That award reads: "Unfailing in courtesy, kindness and collegiality, Justice Mosk's modest demeanor belies the magnitude of his contributions to the development of California Law"; and

WHEREAS, With the passing of Justice Stanley Mosk, California has lost one of its best legal minds and one of its foremost guardians of human rights; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, in recognition of Justice Stanley Mosk's years of public service to the State of California, his commitment to protecting the rights of individuals, and his contributions to California's system of jurisprudence, the State Library and Courts Building shall be renamed as the Stanley Mosk Library and Courts Building.

RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 1—Relative to the Americans with Disabilities Act.

[Filed with Secretary of State July 17, 2001.]

WHEREAS, The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990; and

WHEREAS, The ADA, a comprehensive civil rights act for people with disabilities, guarantees equal opportunity and access for disabled Americans in public and private sector services and employment; and

WHEREAS, More than 54 million Americans and 6.6 million Californians have one or more physical or mental disabilities, and this number is increasingly growing; and

WHEREAS, Discrimination against individuals with disabilities still exists in critical areas of employment, housing, public accommodations, education, transportation, communication, recreation, health services, and access to public services; and

WHEREAS, Individuals with disabilities are a distinct minority who continually experience restrictions and limitations in their daily lives; and

WHEREAS, Governments, businesses, and communities must strive to become inclusive and free of physical and social barriers; and

WHEREAS, The recent United States Court of Appeals, Eighth Circuit, decision in *Alsbrook v. City of Maumelle*, 184 F.3d 999 (1999) ruled that Title II of the Americans with Disabilities Act is unconstitutional and is not a proper exercise of Congress' power under the Fourteenth Amendment to the United States Constitution; and

WHEREAS, The recent United States Supreme Court decision in *Board of Trustees of the University of Alabama v. Garrett*, 121 S.Ct. 955 (2001) held that Title I of the Americans with Disabilities Act does not authorize private individuals with disabilities to recover money damages against any state; and

WHEREAS, This holding was based upon the view that Congress failed to make the factual findings necessary to abrogate the right of each state under the Eleventh Amendment to the United States Constitution to protection from damage suits under Title I of the American with Disabilities Act; and

WHEREAS, The rights of individuals as enumerated in the Americans with Disabilities Act and other civil rights legislation are fragile and must be watched over with great vigilance; and

WHEREAS, The federal government must continue to demonstrate leadership in the implementation and enforcement of the ADA at the federal and state level; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to do all of the following:

(1) Stand firm in their resolve to uphold the current provisions of the Americans with Disabilities Act.

(2) Affirm the intent and substance of the Americans with Disabilities Act by enacting new legislation that would nullify the effect of any court decision that weakens the act.

(3) Take appropriate measures to encourage both public and private entities to implement the provisions of the ADA.

(4) Establish whether the ADA has been applied in the manner in which it was intended, and whether any unintended consequences have resulted; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States and to all members of Congress of the United States.

RESOLUTION CHAPTER 83

Senate Concurrent Resolution No. 10—Relative to Mexican Independence Day.

[Filed with Secretary of State July 19, 2001.]

WHEREAS, Shortly before dawn on September 16, 1810, Miguel Hidalgo y Costilla made a momentous decision that revolutionized the course of Mexican history; and

WHEREAS, Dies y Seis de Septiembre, the 16th of September, marks the day that Miguel Hidalgo y Costilla, one of Mexico's founders, made the call for Mexico's independence; and on that day he issued the revolutionary document "El Grito de Dolores" (the Cry of Dolores) that called for racial equality, land reform, and independence from French-controlled Spain; and

WHEREAS, Hidalgo, who was approaching 60 years of age, had close ties with Mexican-born Spaniards, known as criollos, and was beloved and greatly respected by Mexicans; and

WHEREAS, Don Miguel's proclamation marked the beginning of the Mexican people's long struggle for independence from the tyranny of a distant monarchy; and

WHEREAS, Nearly 11 years later, New Spain won its independence from Old Spain and proclaimed itself the Republic of Mexico; and

WHEREAS, Forty years later, the Mexican people drove a new invader in the form of troops from France from their soil and established, once and for all, their independence from foreign domination; and

WHEREAS, Hidalgo is still revered as the father of Mexican independence, and concerned citizens of Mexican ancestry will be observing Dies y Seis de Septiembre, the 16th of September, as the day that Miguel Hidalgo y Costilla launched the war for Mexico's independence; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby calls on all the people of California to join the people of Mexico and all Californians of Mexican heritage in celebrating Dies y Seis de Septiembre, the 16th of September, with the cry of Don Miguel Hidalgo: "Long live independence! Death to bad government!"

RESOLUTION CHAPTER 84

Senate Concurrent Resolution No. 17—Relative to the Department of Transportation.

[Filed with Secretary of State July 19, 2001.]

WHEREAS, California's economic vitality and the quality of California's communities and natural environment are expected to attract an additional half-million residents annually; and

WHEREAS, This growth rate presents challenges to the state in providing and maintaining sufficient infrastructure; and

WHEREAS, Transportation is essential to most activities affecting California's business, recreation, and economy, and is integrally linked to land-use decisionmaking, housing, and the environment; and

WHEREAS, The State Highway Route 99 corridor is a major corridor for commercial services and the movement of goods in the Central Valley and throughout the state; and

WHEREAS, The Central Valley is the most productive agricultural region in the world, and State Highway Route 99 serves as the major route for distributing its agricultural products for state, national, and export usage; and

WHEREAS, State Highway Route 99 between Bakersfield and Sacramento would benefit from infrastructure improvements; and

WHEREAS, The Governor and the Legislature last year committed an unprecedented investment in additional funds to transportation; and

WHEREAS, California's strong economy may again result in surplus moneys, and any surplus moneys will again provide an unprecedented

opportunity to invest in infrastructure improvements that will sustain California's growing population; and

WHEREAS, This opportunity is worthy of careful consideration so as to produce the greatest possible benefits; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby requests the Department of Transportation to identify those transportation-related needs on the State Highway Route 99 between Bakersfield and Sacramento that would result in traffic congestion relief and the increased transportation of goods; and be it further

Resolved, That the department is urged to prepare and submit to the Legislature, on or before January 1, 2002, a report on its findings; and be it further

Resolved, That in the preparation of the report, the department is urged to seek the cooperation and assistance of local transportation agencies and, to the extent feasible, utilize road conditions and financial data already in existence or contained in previously completed reports or surveys; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Department of Transportation.

RESOLUTION CHAPTER 85

Senate Concurrent Resolution No. 21—Relative to California Hispanic Heritage Month.

[Filed with Secretary of State July 19, 2001.]

WHEREAS, President Lyndon B. Johnson first proclaimed National Hispanic Heritage Week on September 17, 1968, in recognition of the contributions of Hispanic Americans to American culture and history; and

WHEREAS, The original weeklong commemoration was changed by Public Law No. 100-402 to National Hispanic Heritage Month on January 1, 1989; and

WHEREAS, The objectives of National Hispanic Heritage Month are to create a greater awareness of the contributions of Hispanic Americans to American culture, to illustrate the diversity of the Hispanic American community, and to encourage a greater curiosity within young people about the rich history and cultural heritage of Hispanic Americans; and

WHEREAS, Hispanic influence is evident in American culture whether it is in the area of music, arts, sciences, food, humanities, or business and trade; and

WHEREAS, Hispanic Americans from the time of the Revolutionary War to the Persian Gulf War in 1991 have proudly served this country in the Armed Forces and during their course of service, 38 Hispanic Americans, including nine from California have been awarded the Congressional Medal of Honor, the highest honor conferred for military bravery; and

WHEREAS, There are more than 9 million Hispanic Americans in California; and

WHEREAS, Hispanic Americans have contributed to the development and success of California by playing major roles in building this state through agriculture, medicine, science, entertainment, business, education, civil rights, politics, and sports; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims September 15 to October 15, 2001, inclusive, as California Hispanic Heritage Month, and encourages all Californians to observe this event in communities throughout the state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 86

Senate Joint Resolution No. 1—Relative to slavery.

[Filed with Secretary of State July 19, 2001.]

WHEREAS, Approximately 4,000,000 Africans and their descendants were enslaved in the United States and the 13 American colonies in the period 1619 through 1865; and

WHEREAS, Slavery was a grave injustice that caused and continues to cause African-Americans to suffer enormous damages and losses, both material and intangible, including the loss of human dignity and liberty, the frustration of careers and professional lives, and the long-term loss of income and opportunity; and

WHEREAS, Slavery in the United States denied African-Americans the fruits of their own labor and was an immoral and inhumane deprivation of life, liberty, the pursuit of happiness, citizenship rights, and cultural heritage; and

WHEREAS, Although the achievements of African-Americans in overcoming the evils of slavery stand as a source of tremendous inspiration, the successes of slaves and their descendants do not

overwrite the failure of the nation to grant all Americans their birthright of equality and the civil rights that safeguard freedom; and

WHEREAS, An apology is an important and necessary step in the process of racial reconciliation, because a sincere apology accompanied by an attempt at real restitution is an important healing interaction; and

WHEREAS, A genuine apology may restore damaged relationships, whether they are between two people or between groups of people; and

WHEREAS, African-American art, history, and culture reflect experiences of slavery and freedom, and continued struggles for full recognition of citizenship and treatment with human dignity, and there is inadequate presentation, preservation, and recognition of the contributions of African-Americans within American society; and

WHEREAS, There is a great need for building institutions and monuments to promote cultural understanding of African-American heritage and further enhance racial harmony; and

WHEREAS, A commission to study reparation proposals for African-Americans should be established; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the United States Congress to enact legislation similar to House Concurrent Resolution 356, which was introduced on June 19, 2000, and House Resolution 40, which was introduced on January 6, 1999; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Speaker of the House of Representatives, the Chairpersons of the House and Senate Judiciary Committees, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 87

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Article XIX B thereto, relating to transportation.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, California's continuing economic prosperity and quality of life depend, in no small part, upon an expansive and efficient transportation system; and

WHEREAS, The need to maintain, expand, and improve California's multimodal transportation system increases as California continues to grow; and

WHEREAS, Public investment in transportation has failed to keep pace with California's growth, and additional fiscal resources are needed simply to maintain, much less expand, California's transportation system; and

WHEREAS, The failure to address California's transportation funding needs will drain economic vitality, compromise public safety, and erode quality of life; and

WHEREAS, It is now necessary to address California's transportation problems by providing additional state funding, in a manner that protects existing constitutional guarantees set forth in Section 8 of Article XVI of the California Constitution, for the funding of public education; now, therefore, be it

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2001–02 Regular Session commencing on the fourth day of December 2000, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Article XIX B thereto, to read:

ARTICLE XIX B

MOTOR VEHICLE FUEL SALES TAX REVENUES AND TRANSPORTATION IMPROVEMENT FUNDING

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on the operative date of this article.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if both of the following conditions are met:

(1) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(2) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

RESOLUTION CHAPTER 88

Assembly Joint Resolution No. 13—Relative to autism.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, The United States Congress formed the Coalition for Autism Research and Education (C.A.R.E.) on January 10, 2001, the first organization on Capitol Hill to call national attention to the autism disorder; and

WHEREAS, C.A.R.E. is the first registered congressional member organization (CMO) to focus its efforts on the autism spectrum disorder; and

WHEREAS, The formation of C.A.R.E. is a positive and crucial first step in expanding autism research; and

WHEREAS, Families across America are facing the challenges of raising children and loved ones who are autistic; and

WHEREAS, It is time for the federal government to help facilitate the discussion surrounding causes and cures for this disorder as well as recognize the need for federal funding for further, more advanced research; and

WHEREAS, C.A.R.E. will work to improve public awareness of autism, which has been neglected by federal health, medical, and scientific research programs for far too long; and

WHEREAS, C.A.R.E. will support initiatives that they believe are vital to the national effort to provide hope and answers to anxious parents and children with autism; and

WHEREAS, Autism is a complex developmental disability that is typically diagnosed during the first three years of life and affects at least one in every 500 children in America; and

WHEREAS, The disorder is more common than Down syndrome, muscular dystrophy, cystic fibrosis, and many forms of childhood cancer; and

WHEREAS, Autism has robbed at least 500,000 Americans of their ability to communicate and interact; and

WHEREAS, There is evidence that autism is increasing, but because the United States does not have a proper, nationwide tracking program to maintain autism statistics, no one knows for certain if the increase is a result of more cases of autism or instead a better understanding of the condition itself; and

WHEREAS, The creation of C.A.R.E. is a landmark and will ensure the continued and expanded support for autism research; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby urges the President and Congress of the United States to fully support C.A.R.E. and the additional federal funding needed for advanced autism research; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the

Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 10—Relative to Red Ribbon Week.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, Californians for Drug-Free Youth, Inc. (CADFY), a statewide parent-community organization, the office of the Governor, the office of the Attorney General, the State Department of Alcohol and Drug Programs, the State Department of Education, the California Parent Teacher Association, and over 100 other statewide agencies, departments, and organizations are cosponsoring October 22 through October 28, 2001, as Red Ribbon Week; and

WHEREAS, Parents, youth, schools, businesses, law enforcement, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the State of California will demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this weeklong celebration; and

WHEREAS, The theme of this year's effort is "BE HEALTHY AND DRUG FREE!"; and

WHEREAS, Drug abuse stands as one of the major challenges our state faces in securing a safe and healthy future for our children; and

WHEREAS, The objective of Red Ribbon Week, 2001, will be to promote this view through drug prevention, education, parental involvement, and communitywide support; and

WHEREAS, The Assembly of the State of California has further committed its resources to ensure the success of the Red Ribbon Week celebration; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims its support for the Red Ribbon Week celebration by proclaiming October 22 through October 28, 2001, as Red Ribbon Week; and be it further

Resolved, That the Legislature encourages all Californians to help build drug-free communities and to participate in drug prevention activities by making a visible statement that we are firmly committed to healthy, productive, drug-free lifestyles; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California, and to the author for appropriate distribution throughout the community.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 86—Relative to National KidsDay.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, The children of California are the foundation upon which our future success is built; and

WHEREAS, Children look to their parents, mentors, and friends to aid them in reaching important goals; and

WHEREAS, Families and communities play vital roles in helping children develop a positive self image, a sense of belonging, and a sense of competence; and

WHEREAS, National KidsDay is a special day set aside each year (the first Sunday in August) to encourage and remind adults that the meaningful time they share with a child is important to the child's development; and

WHEREAS, the National KidsDay Alliance, comprised of Boys and Girls Clubs of America, 4-H, KidsPeace, and YMCA, together reach more than 20 million youth by providing services to the community; and

WHEREAS, National KidsDay emphasizes the importance of meaningful time spent with kids on this day and every day, throughout the year; and

WHEREAS, the National KidsDay Alliance is working to establish National KidsDay as a national holiday; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims August 5, 2001, as National Kidsday in the State of California, and calls upon all citizens to join in recognizing and commending the National KidsDay Alliance organizations in our state for providing their everyday contributions and commitment to improving the lives of the children and young adults in our communities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for distribution.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 89—Relative to Valley Fever Awareness Month.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, Valley fever (coccidioidomycosis), a progressive, multisymptom, respiratory disorder, is a debilitating disease; and

WHEREAS, It is caused by the inhalation of tiny airborne fungi that live in soil, but are released into the air by soil disturbance or wind; and

WHEREAS, Valley fever attacks the respiratory system causing infection which can lead to symptoms that resemble a cold, influenza, or pneumonia-like symptoms; and

WHEREAS, Left untreated or mistreated, infection can spread from the lungs into the bloodstream causing inflammation to the skin, permanent damage to lung and bone tissue, and swelling of the membrane surrounding the brain leading to meningitis, which can be devastating and even fatal; and

WHEREAS, Once serious symptoms of valley fever appear, including pneumonia and labored breathing, treatment must be prompt with antifungal drugs that are disagreeable and often toxic, especially for patients who have it injected beneath the base of their skull for meningitis, causing side effects such as nausea, fever, and kidney damage; and

WHEREAS, Within California alone, valley fever is found in portions of the Sacramento Valley, all of the San Joaquin Valley, desert regions, and portions of southern California; and

WHEREAS, Valley fever affects the young, the elderly, and those with lowered immune systems, which number in the tens of thousands; and

WHEREAS, Valley fever has been a disease studied for the past 100 years, but still remains impossible to control and difficult to treat; and

WHEREAS, There is no known cure to date for valley fever; however, researchers are closer than they ever have been in finding a much needed vaccine to this devastating disease; and

WHEREAS, The research effort to find a vaccine and the funding partnership, including funding from the State of California, was approved by the Legislature and signed by Governor Wilson in 1997; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby proclaim August 2001 as Valley Fever Awareness Month.

RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 12—Relative to highways.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, Dave Ghilarducci, the Fire Chief of the City of Rio Dell, passed away on March 22, 2000, leaving behind his wife Josephine and three children, Judy McKinley, Jeanette DeFazio, and Rich Ghilarducci; and

WHEREAS, Chief Ghilarducci was born and raised in Rio Dell and served the community as a volunteer fireperson for 52 years, including 32 years as fire chief; and

WHEREAS, Chief Ghilarducci volunteered his time and led his department on over 200 medical and fire calls to assist people in this rural area; and

WHEREAS, Chief Ghilarducci was the past President of the Humboldt County Fire Chiefs Association, and served as a State of California Deputy Fire Marshal; and

WHEREAS, Chief Ghilarducci organized and led the construction of the Rio Dell Community Park and community hall, exemplifying his volunteer efforts; and

WHEREAS, In 1992, the City of Rio Dell recognized Dave Ghilarducci for his years of volunteer service; and in 1998 this community leader was recognized by the Rio Dell School District as outstanding alumnus due to his outstanding accomplishments in life and his support of high standards in education; and

WHEREAS, Dave Ghilarducci and his wife, the former Josephine Manzi, celebrated their 50th wedding anniversary in 1997 in Rio Dell; and

WHEREAS, It is appropriate that the section of State Highway Route 101 from Bridge No. 4-16 to Bridge No. 4-221 that passes through Chief Ghilarducci's beloved Rio Dell be dedicated to the memory of this community leader; and

WHEREAS, Officer Daniel T. Fraembs, a City of Pomona police officer, was killed in the line of duty while on patrol in the City of Pomona on May 11, 1996; and

WHEREAS, Officer Daniel T. Fraembs, became the first officer shot to death in the Pomona Police Department's 108 year-history; and

WHEREAS, Officer Daniel T. Fraembs, was born an orphan in Hong Kong and was adopted at the age of nine months by Donald and Dorothy Fraembs of Cincinnati, Ohio; and

WHEREAS, Officer Daniel T. Fraembs became a citizen of the United States in 1963, graduated from high school and Fullerton Community College, and later joined the United States Marine Corps; and

WHEREAS, Officer Daniel T. Fraembs was appointed to the Orange County Sheriff's Department in 1988, where he worked for five years before joining the Pomona Police Department as a police officer; and

WHEREAS, Officer David T. Fraembs was mortally wounded when he was gunned down on an isolated street on May 11, 1996; and

WHEREAS, In recognition of his dedication to his office and community, it is appropriate to designate the portion of State Highway Route 71, within the city limits of the City of Pomona, the Police Officer Daniel T. Fraembs Memorial Highway; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby dedicates the section of State Highway Route 101 from Bridge No. 4-16 to Bridge No. 4-221 to the memory of Chief Dave Ghilarducci and State Highway Route 71 within the city limits of the City of Pomona to the memory of Officer Daniel T. Fraembs; and be it further

Resolved, That the described section of State Highway Route 101 shall be known as the "Dave Ghilarducci Memorial Highway" and, that State Highway Route 71, within the city limits of the City of Pomona, California, be officially dedicated the "Police Officer Daniel T. Fraembs Memorial Highway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting the appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing these special designations, and, upon receiving donations from nonstate sources covering the cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the authors for appropriate distribution.

RESOLUTION CHAPTER 93

Senate Joint Resolution No. 2—Relative to Cesar Chavez.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, Cesar Chavez was a cherished American who left an extraordinary legacy of great accomplishments and service to humanity; and

WHEREAS, Cesar Chavez overcame the difficulties and barriers of poverty and migrant life; and

WHEREAS, Cesar Chavez exemplified, in his life and work, the indomitable spirit of human labor; and

WHEREAS, Cesar Chavez led by example and provided a role model for all people battling racial and economic discrimination; and

WHEREAS, Cesar Chavez demonstrated that the use of nonviolence was a viable means for resolving conflicts; and

WHEREAS, Cesar Chavez demonstrated that through service every person can make a contribution to improve American life and the human condition; and

WHEREAS, Cesar Chavez forged a legacy of conviction and principled leadership that serves as a beacon for all Americans; and

WHEREAS, Cesar Chavez received the highest civilian honors from both the United States and Mexico, that is, the Presidential Medal of Freedom and the Aguila Azteca; and

WHEREAS, California has declared, commencing March 31, 2001, Cesar Chavez' birthday as the "Cesar Chavez Day of Service and Learning" to provide all school children in California an opportunity for community service and to inculcate the value of service to others; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Postmaster General to issue a postage stamp with the image of Cesar Chavez to recognize his contributions to American life; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Postmaster General.

RESOLUTION CHAPTER 94

Senate Joint Resolution No. 4—Relative to public employees' retirement.

[Filed with Secretary of State July 26, 2001.]

WHEREAS, Under current federal law, individuals who receive a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security are subject to a reduction in their Social Security benefits; and

WHEREAS, These laws, contained in the federal Social Security Act and known as the government pension offset (42 U.S.C. Sec. 402(b)(4)(A)) and the windfall elimination provision (42 U.S.C. Sec.

415(a)(7)) greatly affect lower income public employees, particularly women; and

WHEREAS, Under the windfall elimination provision, Social Security benefits are significantly reduced through an alternative calculation for individuals who qualify for both a Social Security benefit based on their own covered employment and a government pension based on noncovered employment; and

WHEREAS, Under the government pension offset, the spousal or survivor benefit that would be based upon a spouse's Social Security covered employment can be eliminated, even though contributions are made by the individual and matched by the employer, if the survivor also qualifies for a government pension based upon work not covered by Social Security; and

WHEREAS, Other participants in Social Security do not have their benefits reduced in this manner; and

WHEREAS, To participate or not to participate in Social Security in public sector employment was a decision of the employer even though the government pension offset and the windfall elimination provision directly punishes the employee and surviving beneficiary; and

WHEREAS, Although the government pension offset was enacted in 1977 and the windfall elimination provision was enacted in 1983, most people do not become aware of the reduction in their Social Security benefits until the time they expect to begin receiving the benefits; and

WHEREAS, Several bills have been introduced over time in Congress in both the House of Representatives and the Senate that would modify the government pension offset and windfall elimination provision; and

WHEREAS, Each of those pieces of legislation would have limited the application of the government pension offset and windfall elimination provision; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to enact legislation to eliminate the government pension offset (42 U.S.C. Sec. 402(b)(4)(A)) and the windfall elimination provision (42 U.S.C. Sec. 415(a)(7)) of the Social Security Act; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 23—Relative to the Year of the Vulnerable Child.

[Filed with Secretary of State August 29, 2001.]

WHEREAS, The future of society is determined by the growth and achievements of its children, and they enter this world vulnerable, innocent, and dependent; and

WHEREAS, Children depend on adults to keep them safe and secure; and

WHEREAS, Child abuse and neglect is a severe societal disease and often involves multiple personal, social, and economic problems stemming from economic pressure and social isolation; and

WHEREAS, Child abuse occurs in every age group, every race, every religion, and every economic group, so that no community is untouched; and

WHEREAS, Young, preverbal children are unable to protect themselves, or communicate their need for help, and are therefore especially vulnerable to abuse and neglect; and

WHEREAS, Eighty-five percent of child abuse homicides are committed by a parent or caretaker and involve children under the age of four years; and

WHEREAS, Every day in California, two children are victims of child abuse homicide and many more are permanently disabled; and

WHEREAS, Preventing child abuse costs only a small fraction of the cost to human life, suffering, and irreparable damage to families and society as a whole; and

WHEREAS, The protection of children and the prevention of child abuse can be achieved through awareness and training for all levels of government, public and private organizations, and every citizen of the state; and

WHEREAS, Community child abuse councils, multidisciplinary child death review teams, and the State Department of Social Services Child Welfare Services Stakeholders Group, represent key examples of ongoing efforts in California committed to improving the lives of all vulnerable children; and

WHEREAS, Fifty-seven of our 58 counties have formed child death review teams; and

WHEREAS, The administration and the Legislature have assembled a team of stakeholders to examine the shortfalls of the current child welfare services system and provide a plan to put every child's safety first; and

WHEREAS, All children deserve the right to grow up in an environment free of violence, pain, and suffering, and to live up to their fullest potential; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature declares the year 2001 as the Year of the Vulnerable Child.

RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 30—Relative to Reflex Sympathetic Dystrophy Syndrome Awareness Month.

[Filed with Secretary of State August 29, 2001.]

WHEREAS, Reflex Sympathetic Dystrophy (RSD) Syndrome, a progressive multisymptom, multisystem, neuromuscular, neurovascular disorder, is a debilitating disease simultaneously involving nerves, muscles, blood vessels, skin, bones, and tissue; and

WHEREAS, It can develop after an injury, minor or major, and generally occurs in a limb; and

WHEREAS, RSD attacks the sympathetic nervous system, causing it to become confused, leading to a variety of symptoms, resulting in devastating consequences; and

WHEREAS, If left untreated, or mistreated, RSD begins to damage the surrounding tissues, and can spread to other areas of the body and ultimately lead to total disability; and

WHEREAS, Early diagnosis is crucial. There is a short “window of time” during which RSD can possibly be helped, usually within the first three months after onset; and

WHEREAS, Correct aggressive treatment by qualified medical professionals can lead to a positive result; and

WHEREAS, As RSD progresses, treatment becomes increasingly difficult; and

WHEREAS, Although millions are affected with RSD, it is not well known by the public or some medical professionals and this lack of knowledge causes many patients to suffer needlessly for many years; and

WHEREAS, RSD knows no age limit and can strike young and old; and

WHEREAS, Other events that can cause RSD include infections, cuts, pricks of fingers or toes, soft tissue injuries, crush injuries, injury to any area rich in nerve endings, fractures, sprains, dislocations, broken bones, multiple trauma to a particular body part, some surgical procedures,

invasive procedures, and repetitive motion disorders, such as that which causes Carpal Tunnel Syndrome; and

WHEREAS, Some signs and symptoms of RSD include severe burning pain in a localized region that is out of proportion to the severity of the injury, localized edema or swelling that may not always be apparent in the later stages; hyperesthesia, which is oversensitivity to touch and light pressure; vasospasm, which affects color and temperature of skin; muscle atrophy; constant burning pain; decreased range of motion; muscle spasms; stiffness; restricted mobility; and rapid hair and nail growth; and

WHEREAS, Although RSD sufferers may experience some or all of the signs and symptoms, the one common element is constant burning pain, the intensity of which can fluctuate; and

WHEREAS, Although RSD dates to before the Civil War, there is no known cure; and

WHEREAS, Medical professionals must find the cause before they can find the cure; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature does hereby proclaim May 2001 as Reflex Sympathetic Dystrophy (RSD) Syndrome Awareness Month.

RESOLUTION CHAPTER 97

Senate Joint Resolution No. 12—Relative to the Arctic National Wildlife Refuge.

[Filed with Secretary of State August 29, 2001.]

WHEREAS, The Arctic National Wildlife Refuge, and the 1.5 million-acre coastal plain it contains, is one of America's greatest and most pristine wilderness ecosystems and wildlife sanctuaries; and

WHEREAS, The Arctic National Wildlife Refuge is home to a multitude of species, including grizzly bears, wolverine, wolves, musk oxen, arctic foxes, whales, and more than 160 bird species, including species whose migratory route includes much of the continental United States; and

WHEREAS, The Arctic National Wildlife Refuge contains the most important land denning habitat in Alaska for the Beaufort Sea polar bears and the primary calving habitat for the 130,000 member porcupine caribou herd; and

WHEREAS, Research by both the United States Fish and Wildlife Service and independent scientists has concluded that drilling in the Arctic National Wildlife Refuge would likely have a serious

environmental impact on many species, including the polar bear, caribou, musk oxen, and snow geese; and

WHEREAS, The porcupine caribou herd, the second largest herd in the United States, is a key source of food, clothing, and medicine for the people of the Gwich'in Nation; and

WHEREAS, California's current electricity shortage has been erroneously cited as a reason to drill for oil in the Arctic National Wildlife Refuge; however, California obtains less than 1 percent of its electric power from oil; and

WHEREAS, The latest study by the United States Geological Survey estimates that the Arctic National Wildlife Refuge contains less than a six-month supply of economically recoverable oil, and that oil production from the Arctic National Wildlife Refuge would not begin for at least a decade; and

WHEREAS, The environmental consequences of drilling in the biological heart of the Arctic National Wildlife Refuge far outweigh the benefits of recovering possibly six months worth of oil a decade from now; and

WHEREAS, Every effort should be made to protect the Arctic National Wildlife Refuge by prohibiting oil exploration and drilling in that area; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress to take necessary action to protect the Arctic National Wildlife Refuge by prohibiting oil exploration and drilling in any part of the Arctic National Wildlife Refuge; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to all Members of the Congress of the United States, and the Secretary of the Interior.

RESOLUTION CHAPTER 98

Assembly Joint Resolution No. 9—Relative to the space shuttle.

[Filed with Secretary of State September 4, 2001.]

WHEREAS, The space shuttle is the most complex machine ever built, with more than 2.5 million parts, including almost 230 miles of wire, more than 1,060 plumbing valves and connections, over 1,440 circuit breakers, and more than 27,000 insulating tiles and thermal blankets; and

WHEREAS, In eight and one-half minutes after launch, the space shuttle accelerates from zero to about nine times as fast as a rifle bullet, or 17,400 miles per hour, to attain earth orbit; and

WHEREAS, This year saw the 100th space shuttle launch in history, a milestone for NASA's space workhorse that has taken over 600 passengers and 3 million pounds of cargo into orbit; and

WHEREAS, The shuttle fleet has spent almost two and one-half years in space, but even those shuttles with the most travel remain young in the lifetimes for which they were built; and

WHEREAS, NASA is preparing for the possibility of flying the space shuttle for at least another decade or longer in light of the cancellation of the X-33 Program by NASA that was intended as the next generation replacement of the space shuttle program; and

WHEREAS, With the cancellation by NASA of the X-33 Program, there is now a clear need for additional space shuttle orbiters to be built, and the expertise of the labor force in California is clearly the best equipped in the nation to perform this task; and

WHEREAS, Future upgrades to the space shuttles will make this American cornerstone of world space flight even better, with a goal of doubling launch safety by 2005; and

WHEREAS, The space shuttle program is the main element of America's space transportation system, and shuttles are used for space research and space applications; and

WHEREAS, The shuttles are the first vehicles capable of being launched into space and returning to earth on a routine basis and are designed to be used 100 times; and

WHEREAS, In 1969, shortly after the first moon landing of the Apollo Program, the President's Space Task Force recommended that the United States initiate a program to develop a new space transportation system; and

WHEREAS, In 1970, NASA initiated engineering, design, and cost studies dealing with the concept of a reusable manned spacecraft that utilized strap-on solid propellant rockets and an expendable liquid fuel/oxidizer tank; and

WHEREAS, In 1972, President Nixon gave NASA authority to proceed with development of this type of reusable space system; and

WHEREAS, Space shuttle operations are currently managed by a joint venture company known as the U.S. Alliance, owned jointly by the Boeing Company and Lockheed Martin under contract to NASA, and headquartered in Florida; and

WHEREAS, Shuttle launches and orbiter landings currently occur in Florida at the NASA Kennedy Space Center; and

WHEREAS, After landing at Kennedy, orbiters are serviced and parked in one of three special hangars or ferried to Boeing Reusable

Space Systems at Plant 42 in Palmdale, California, for overhaul, inspections, upgrades, or maintenance, where servicing includes purging liquid propellants and fuel/oxidizer byproducts on board, and removing the orbiter maneuvering system pods, forward reaction control system pod, and main engines for shipment to their original manufacturers; and

WHEREAS, After being ferried via Boeing 747 aircraft from Kennedy to Plant 42, the shuttles are removed from the 747 aircraft with a crane assembly and towed into one of two shuttle processing bays at Boeing Reusable Space Systems' location; and

WHEREAS, NASA is currently seeking to transfer the orbiter modification work to Florida rather than the current location in California, which will result in substantial job losses to local aerospace workers, and a substantial negative impact on the local economy of the Antelope Valley and on the State of California's economy; and

WHEREAS, The justification for the proposed move is alleged differences between Florida and California labor costs, despite the fact that employees at U.S. Alliance in Florida work in NASA facilities and NASA covers all of the administrative overhead; and

WHEREAS, There has been no accurate and comparative demonstration that this move will result in increased savings in the space shuttle program and, to the contrary, Florida lacks the necessary facility infrastructure and the workforce experience necessary to maintain the stellar program's safety record; and

WHEREAS, It is estimated that this move would cost over \$75 million and would entail the construction of a building and the complete outfitting of it; and

WHEREAS, In 1996, NASA and U.S. Alliance concluded an extensive study to determine the feasibility of an alternative approach to cost reduction that would eliminate much of Florida's shuttle processing workload by recovering shuttle orbiters returning from space directly at Plant 42, and that study concluded that it is technically feasible; and

WHEREAS, NASA subsequently developed cost data that suggest that all of the necessary Plant 42 infrastructure modifications could be completed for approximately \$21 million; and

WHEREAS, This study also concluded that landing shuttles in California would increase the margin for mission launch schedule success and support flight rate expansion, while eliminating the need to expand facilities and resources in Florida; and

WHEREAS, Perhaps most importantly, orbiter preparation and ferry costs would decrease, as would general demand on Kennedy facilities and resources, leaving Kennedy more time and money to focus on the launch process itself; and

WHEREAS, Landing at Plant 42 after a mission that is directly prior to an orbiter major modification or depot maintenance period would completely eliminate the need and costs of postflight and pre-ferry flight processing at Kennedy; and

WHEREAS, After the 1996 study was completed, the Astronaut Office concluded that Plant 42 landings were not only feasible, but ran several landing simulations to show the practicality as well as technical feasibility, and subsequent discussions with the Federal Aviation Authority resulted in their concurrence as well; and

WHEREAS, The importance of shuttle landings in California would have a substantial positive impact on the tourism industry in California, as evidenced by the crowd of approximately one million people who parked five miles away to watch the 1996 landing at Edwards Air Force Base; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and NASA to consider the following: (1) ensure that a long-term commitment to keeping the Space Shuttle Modification Program at Plant 42 in Palmdale, California, is maintained; (2) authorize additional space shuttle orbiters in light of the recent cancellation of the X-33 Program by NASA; (3) require that the orbiters be built in California by California workers; and (4) move proactively to land space shuttle orbiters at Plant 42 in Palmdale when those orbiters are due for scheduled refurbishment, and thereby save the taxpayers of the United States nearly \$1 million each time this occurs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, and to the Director of NASA.

RESOLUTION CHAPTER 99

Assembly Concurrent Resolution No. 20—Relative to the California Coastal Trail.

[Filed with Secretary of State September 4, 2001.]

WHEREAS, Through the appointments of Governor Gray Davis and the work of the nonprofit organization, Coastwalk, the White House Millennium Council has designated the California Coastal Trail from Oregon to Mexico as a Millennium Legacy Trail; and

WHEREAS, The California Coastal Trail is identified in the California Coastal Plan and the California State Parks Recreational Trail Plan; and

WHEREAS, Public access to and along the coast of California is protected under Article X of the California Constitution and the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code); and

WHEREAS, Trails and greenways have a beneficial impact on quality of life in California, including the environment, economy, health, education, and community livability; and

WHEREAS, The recognition and completion of the California Coastal Trail is an integral part of the state's responsibility to provide public coastal access for all in perpetuity; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares that the California Coastal Trail is an official state trail and urges the California Coastal Commission and the State Coastal Conservancy to work collaboratively on the completion of the trail; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 29—Relative to the Orange County Korean War Veterans Memorial Highway.

[Filed with Secretary of State September 4, 2001.]

WHEREAS, June 25, 2000, marked the 50th anniversary of the invasion of South Korea by North Korea and the start of the three-year Korean War with combat hostilities ending upon the signing of an armistice agreement by the United Nations and North Korea on July 27, 1953; and

WHEREAS, The Korean War is often called “The Forgotten War” because many of our nation's veterans who served in that conflict have been forgotten; and

WHEREAS, The nation is currently observing the 50th anniversary of the Korean War by special observances and commemorative activities that are occurring during the years 2000 to 2003, inclusive; and

WHEREAS, The public memorials that are dedicated to those who served, and to those who died in that conflict, will remind future generations of the sacrifices that these men and women made during the

Korean War, and stand as an eternal symbol that the State of California honors and remembers its veterans; and

WHEREAS, It is therefore fitting and proper that the portion of State Highway Route 1 that extends from its southern terminus in the City of San Juan Capistrano to its intersection with Golden West Street in the City of Huntington Beach be designated as the Orange County Korean War Veterans Memorial Highway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates that portion of State Highway Route 1 that extends from its southern terminus in the City of San Juan Capistrano to its intersection with Golden West Street in the City of Huntington Beach as the Orange County Korean War Veterans Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting appropriate signs or markers, consistent with signing requirements for the state highway system, showing that special designation, and, upon receiving donations from nonstate sources covering that cost, to erect those signs or markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 59—Relative to 14 Mile House Historical Monument.

[Filed with Secretary of State September 4, 2001.]

WHEREAS, In June 1864, the Chico and Humboldt Wagon Road Company was incorporated, and John Bidwell and other Chicoans received the franchise to construct a road to connect the City of Chico with the Idaho Mines; and

WHEREAS, Nick Spires built accommodations on that road at a site located on the rim of Little Chico Creek Canyon for travelers and their livestock; and

WHEREAS, Paul Lucas bought the land from Nick Spires, and Paul Lucas' son, John Lucas, built a fine two-story hotel; and

WHEREAS, The hotel, a slaughter house, and a hide house, which later served as a school for Chico Canyon children, were collectively referred to as 14 Mile House; and

WHEREAS, Soon after the turn of the 19th century, the toll house that was adjacent to the road was moved four miles north, nearer to today's Forest Ranch, and the last remaining 14 Mile House building, the old barn, disappeared in the 1960's; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to grant, without charge, the necessary encroachment permit authorizing an appropriate historical monument and plaque dedicated to 14 Mile House to be placed within the right-of-way of State Highway Route 32 in Butte County at a site that is located along State Highway Route 32, lying approximately 12.7 miles east of the junction of State Highway Route 32 and State Highway Route 99, at the site of the 14 Mile House; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and the Director of Parks and Recreation.

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 32—Relative to the 32nd Anniversary of the First Moon Landing.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, The Moon, lying 239,900 miles from the Earth, has fueled our imagination and whimsy since the dawn of time; and

WHEREAS, Some 400 years ago, Galileo first saw the Moon through the lens of a telescope; and

WHEREAS, Since that time, man has continuously studied, measured, and observed the Moon in an attempt to learn its mysteries; and

WHEREAS, Man's fascination with the Moon reached a fevered peak on October 4, 1957, when the former Soviet Union launched a 23-inch, 184-pound metal sphere called Sputnik 1 into the Earth's orbit. With that launch, the race to the Moon began; and

WHEREAS, In May of 1961, President John F. Kennedy made it a priority of his administration to land an American on the Moon and safely return him to Earth, and to achieve this goal before the end of the decade ; and

WHEREAS, The National Aeronautical Space Administration (NASA) was challenged to create a spacecraft that could carry three astronauts to an orbit around the Moon; thus the spacecraft, named the Apollo, was born; and

WHEREAS, On July 17, 1969, the world watched as the Apollo 11 spacecraft was launched from Cape Canaveral, Florida, and 11 minutes later, Astronauts Neil Armstrong, Edwin “Buzz” Aldrin, and Mike Collins were in orbit, gazing down at the Earth; and

WHEREAS, Three days later, on July 20, 1969, with 17 seconds of fuel to spare, the lunar module nicknamed “the Eagle” gently landed on a smooth patch of lunar sand called Tranquility Bay; and

WHEREAS, Back on Earth, an estimated 600 million pairs of eyes watched as the Apollo 11 and her astronauts made history; and

WHEREAS, Neil Armstrong’s booted foot, pressed firmly in the lunar soil, symbolized the stunning success of man’s highest adventure—the first man on the Moon; and

WHEREAS, This historic accomplishment was brought about by the high courage of the Apollo Program astronauts and the superb technical precision of the tens of thousands who supported them; and

WHEREAS, The Apollo mission awakened the country’s imagination and raised its awareness of the Earth’s place in the universe; and

WHEREAS, We have enjoyed the benefits of space exploration, including developments in telecommunications, navigation, and information systems; and

WHEREAS, The goal of former President John F. Kennedy has been achieved and the landing of the Apollo 11 has been one of the greatest technological and historical accomplishments in the United States; and

WHEREAS, The importance of every successful civilization has been its willingness to explore, expand, and succeed. As we remember our past or chart our future, it is important that we pay tribute to the anniversary of the first Moon landing because of the invaluable knowledge we have gained from space exploration; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California look back and reflect with pride and profound gratitude upon the achievements of our nation’s astronauts, engineers, and scientists; and be it further

Resolved, That the Legislature hereby designates July 20, 2001, as the 32nd Anniversary of the First Moon Landing and show appreciation to those who have committed themselves to promoting space exploration and its benefits; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 33—Relative to Neighborhood Watch Month.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, California's communities recognize the Neighborhood Watch as an effective means of keeping crime out of neighborhoods; and

WHEREAS, Neighbors and law enforcement agencies can work together to create an effective crime fighting team; and

WHEREAS, Approximately one residential burglary occurs every two minutes in the State of California; and

WHEREAS, The United States Attorney General has warned that juvenile crime arrests will more than double by the year 2010; and

WHEREAS, Much remains to be done to ensure the safety of our homes, our neighborhoods, and our communities for ourselves and our children; and

WHEREAS, The battle against crime will not be won by individuals acting alone; and

WHEREAS, Neighborhood Watch teaches children respect for the law, reinforces community values, and encourages the kind of individual responsibility that makes for healthy, creative neighborhoods that are populated by safer and happier citizens; and

WHEREAS, Neighborhood Watch programs put neighbors on guard for criminal activity that may occur near their homes, encourage the reporting of suspicious activity to the police, and provide escorts for elderly or vulnerable citizens; and

WHEREAS, The growth of Neighborhood Watch programs is truly encouraging; and

WHEREAS, Neighborhood Watch programs play a significant role and encompass a broad range of activities in making neighborhoods safe; and

WHEREAS, Because of the significance and scope of Neighborhood Watch programs in making neighborhoods safe, it is important that the State of California recognize the many contributions of the residents of this state and of law enforcement officers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the month of August 2001 be declared Neighborhood Watch Month; and be it further

Resolved, That on the occasion of Neighborhood Watch Month, the Legislature commends those California residents who have participated in Neighborhood Watch programs for their distinguished service to their communities by uniting their neighborhoods and law enforcement to

keep their neighborhoods safe, and encourages all Californians to join in this effective means of fighting crime in their neighborhoods.

RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 35—Relative to Children’s Health Insurance Month.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, Over 2,000,000 of California’s children do not have health insurance; and

WHEREAS, The State of California ranks only 45th in the nation in the percentage of children with health insurance; and

WHEREAS, Forty percent of California’s uninsured children live in poverty; and

WHEREAS, Eighty percent of our uninsured children live in families with working parents ; and

WHEREAS, Approximately 30 percent of Native American children, 30 percent of Latino children, 10 percent of African-American children, 10 percent of Asian Pacific Islander children, and 10 percent of non-Latino white children in California are uninsured; and

WHEREAS, Uninsured children tend to be in poorer health since they are less likely to have a usual source of medical care, and are more likely to delay, or go without, needed health care services; and

WHEREAS, Simple measures taken during childhood, such as receiving regular checkups and vaccinations, will lower health care costs by preventing more serious illnesses, diseases, and ailments later in life; and

WHEREAS, The State of California recognizes the importance of keeping our children well, which promotes healthy development and learning; and

WHEREAS, The State of California is striving to address the needs of the uninsured by providing no-cost and low-cost health insurance through the Healthy Families Program and the Medi-Cal program; and

WHEREAS, Over 30 percent of uninsured California children are eligible for benefits under the Healthy Families Program and over 40 percent of uninsured California children are eligible for benefits under the Medi-Cal program; and

WHEREAS, The State of California recognizes the need to bring all resources to bear in enrolling in health insurance programs our uninsured children who are eligible for enrollment in those programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the month of September 2001 as Children's Health Insurance Month, and encourages outreach to increase enrollment of children in the Healthy Families Program and the Medi-Cal program in order to help California attain the goal of providing health care to every eligible child.

RESOLUTION CHAPTER 105

Senate Joint Resolution No. 11—Relative to the Vietnam Veterans Memorial Education Center.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, The Vietnam Veterans Memorial is the most visited memorial in our nation's Capitol; and

WHEREAS, The Vietnam Veterans Memorial Education Act (S. 281 in the United States Senate and H.R. 510 in the United States House of Representatives), if enacted, would authorize the establishment of the Vietnam Veterans Memorial Education Center on the three-acre site of the Vietnam Veterans Memorial; and

WHEREAS, Engraved upon the majestic walls of the Vietnam Veterans Memorial are the names of 5,576 Californians in the over 58,000 names of those who gave their lives for our country serving with the United States Armed Forces in the Vietnam War; and

WHEREAS, The Vietnam Veterans Memorial Education Center will be built through private donations; and

WHEREAS, The focus of the Vietnam Veterans Memorial Education Center will be to educate young Americans about the history of the Vietnam War and the sacrifices made there; and

WHEREAS, Young people need a better appreciation of America's history in order to become better citizens and the center will be helpful in teaching young people about the impact of the Vietnam War; and

WHEREAS, The Legislature of the State of California gives its support to the plan by the United States Congress for an education center at the Vietnam Veterans Memorial; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to take appropriate measures to facilitate the design and construction of the Vietnam Veterans Memorial Education Center; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States and to all Members of Congress of the United States.

RESOLUTION CHAPTER 106

Senate Joint Resolution No. 18—Relative to the Railroad Retirement and Survivors Improvement Act.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, The Railroad Retirement and Survivors Improvement Act of 2000 was approved in a bipartisan effort by 391 Members of the United States House of Representatives in the 106th Congress, including 47 of the 52 California Members of the United States House of Representatives; and

WHEREAS, More than 80 United States Senators, including both California Senators, signed letters of support for this legislation in 2000; and

WHEREAS, Bills now before the 107th Congress would modernize the railroad retirement system for its 748,000 beneficiaries nationwide, including nearly 50,000 in California; and

WHEREAS, Railroad management, labor, and retiree organizations have agreed to support bills modernizing the railroad retirement system; and

WHEREAS, These bills would provide tax relief to freight railroads, Amtrak, and commuter lines; and

WHEREAS, These bills would provide benefit improvements for surviving spouses of rail workers who currently suffer deep cuts in income when the rail retiree dies; and

WHEREAS, No outside contributions from taxpayers are needed to implement the changes called for in these bills; and

WHEREAS, All changes will be paid for from within the railroad industry, including a full share by active employees; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Congress to support legislation improving railroad retirement benefits for retirees and their survivors in the 107th Congress; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of

Representatives, and all members of the California congressional delegation.

RESOLUTION CHAPTER 107

Senate Joint Resolution No. 19—Relative to railroad grade crossings.

[Filed with Secretary of State September 7, 2001.]

WHEREAS, The Federal Railroad Administration is proposing regulations to carry out Section 20153 of Title 49 of the United States Code that, in general, require a locomotive horn to be sounded when a train is approaching and entering a public highway-rail grade crossing; and

WHEREAS, The adoption of those federal regulations will enable appropriate public entities to submit waiver petitions to the Federal Railroad Administration for the purpose of establishing quiet zones, within which locomotive horns may not be sounded, at eligible railroad grade crossings, together with proposals for the implementation of safety measures that adequately substitute for the sounding of the locomotive horn; and

WHEREAS, The applicable federal law also authorizes the Secretary of Transportation to provide, in advance of any rulemaking by the Federal Railroad Administration, for certain exceptions to the requirement to sound the locomotive horn, including exceptions for categories of railroad grade crossings that feature supplementary safety measures that, in the judgment of the secretary, compensate for the absence of the warning provided by the locomotive horn; and

WHEREAS, Many communities are likely to improve the safety of railroad grade crossings for the purpose of establishing quiet zones, thereby preventing fatalities and injuries relating to those crossings while improving the quality of living conditions for those living near crossings; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Federal Railroad Administration to adopt, as soon as possible, regulations relating to the establishment of quiet zones at eligible railroad grade crossings in accordance with Section 20153 of Title 49 of the United States Code; and be it further

Resolved, That the Legislature respectfully memorializes the Congress of the United States to approve legislation that provides the necessary funding to the states for the implementation of supplemental

safety measures for the purpose of establishing quiet zones in accordance with that federal law; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, each Senator and Representative from California in the Congress of the United States, the Secretary of Transportation, and the Federal Railroad Administrator.

RESOLUTION CHAPTER 108

Assembly Joint Resolution No. 12—Relative to the incarceration of undocumented alien felons.

[Filed with Secretary of State September 10, 2001.]

WHEREAS, There are over 20,000 undocumented alien felons in California prisons who are the responsibility of the federal government. If those inmates were moved to federal correctional facilities, five empty state prisons with available prison beds would immediately become available; and

WHEREAS, Excluding the fiscal impact to county jails and the Department of the Youth Authority, the Governor's Budget estimates that the cost of incarcerating alien felons in California prisons to be approximately \$550,000,000; and

WHEREAS, In the fiscal year 2000–01, California only received \$196,000,000 from the federal government to cover all the costs associated with incarcerating aliens at both the local and state level; and

WHEREAS, The federal government has proposed to reduce \$135,000,000 in federal reimbursement to the states for incarcerating undocumented alien felons in the 2002 federal budget. Typically, California receives more than 40 percent of the budgeted federal reimbursement to states for incarcerating alien felons. This proposed reduction would result in California receiving approximately \$60,000,000 less for this cost to California taxpayers; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the federal government should accept its responsibility and transfer out of California's correctional system and into the Federal Bureau of Prison system, all undocumented alien felons currently in institutions under the authority of the Department of Corrections; and be it further

Resolved, That the Clerk of the Assembly transmit copies of this resolution to the Majority Leader of the Senate and the Speaker of the House of Representatives of the United States, and the Director of the Federal Bureau of Prisons.

RESOLUTION CHAPTER 109

Senate Concurrent Resolution No. 34—Relative to Muslim holidays.

[Filed with Secretary of State September 17, 2001.]

WHEREAS, Islam is the religion of more than 1.2 billion diverse people around the world; and

WHEREAS, The population of Muslims in the United States is estimated to be 9 to 12 million citizens; and

WHEREAS, Muslims have played a productive and important role in the history of the United States going back to the 16th century; and

WHEREAS, It is essential to promote balanced and accurate information about Islam in order to improve understanding between Muslims and other citizens of the United States and to reduce hate crimes and discrimination; and

WHEREAS, Recognition of the two major Muslim holidays and the historically significant day of Israa acknowledges the importance of Muslims in American society; and

WHEREAS, In the year 2001, these two holidays occur on the following dates: Eid-al-Adha on March 6 and Eid-al-Fiter on December 16, and the historically significant day of Israa ; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby calls on the people of California to join Californians of Muslim heritage in recognizing the two Muslim holidays of Eid-al-Adha and Eid-al-Fiter, and the historically significant day of Israa.

RESOLUTION CHAPTER 110

Senate Concurrent Resolution No. 38—Relative to the Francis B. Mathews Memorial Rest Area.

[Filed with Secretary of State September 17, 2001.]

WHEREAS, Francis B. Mathews was a well respected attorney and community leader in Trinity and Humboldt Counties for over 50 years,

and also was a real estate developer, logger, builder, fishing boat and marina owner; and

WHEREAS, Although Francis B. Mathews was known largely for his representation of timber, logging, and sawmill companies, his pro bono services and dedication to the citizens of Trinity and Humboldt Counties and the Hoopa and Yurok Indian tribes were well known throughout the region; and

WHEREAS, Francis B. Mathews' reputation for integrity and his dedication to community endeavors were unsurpassed; and

WHEREAS, An Eagle Scout in the Boy Scouts of America, Francis B. Mathews sat on the scout council and was an active fundraiser and contributor to the scouting programs in Trinity and Humboldt Counties; and

WHEREAS, Francis B. Mathews was also dedicated to his country, having served in the Army Air Corps during World War II; and

WHEREAS, Francis B. Mathews was instrumental in the founding of Trinity Village at Hawkins Bar in Trinity County, a large planned community built upon reclaimed land; and

WHEREAS, Francis B. Mathews was a naturalist and lifetime birdwatcher who donated his entire bird book collection of over 3,000 books to California State University, Humboldt; and

WHEREAS, There is an unnamed roadside rest area on Highway 299 in Trinity County, near Trinity Village, that would be a fitting memorial to Francis B. Mathews; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the unnamed rest area on Highway 299 in Trinity County, which is approximately midway between the communities of Hawkins Bar and Salyer, be redesignated the Francis B. Mathews Memorial Rest Area; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 40—Relative to the California Task Force on Youth and Workplace Wellness.

WHEREAS, Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart muscles, burn calories, and improve cholesterol levels; and

WHEREAS, Nearly all American youths from 12 to 21 years of age are not vigorously active on a regular basis; and

WHEREAS, A healthy, fit workplace can greatly enhance the quality of life for California workers and their families, prevent burnout and illness, and enhance productivity of California businesses; and

WHEREAS, Corporate America traditionally overlooks the importance of employee well-being in relation to the work environment. A task force is necessary to provide a framework and support to help California companies evolve to a more holistic, long-term approach to employees and working conditions; and

WHEREAS, Technological advancements in our modern economy have drastically increased both the pace of work and stress levels faced by workers. More attention must be paid to the fallout that occurs in the areas of physical health and emotional well-being of employees when a balanced lifestyle is ignored in favor of business success; and

WHEREAS, Work often impedes efforts to attain health and fitness. A task force can help the California workplace be more supportive to the health and fitness efforts of California employees; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Task Force on Youth and Workplace Wellness is hereby established to promote fitness and health in schools and workplaces; and be it further

Resolved, That the task force shall be comprised of Members of the Legislature and experts as follows:

(a) The task force shall have 12 voting members, with additional advisory members as requested or needed.

(b) The Speaker of the Assembly shall appoint two Members from the Assembly, and the Senate Committee on Rules shall appoint two Members from the Senate. Additionally, both the Speaker of the Assembly and the Senate Committee on Rules shall each appoint one member, from each of the following categories:

(1) One member from the field of education.

(2) One member from the field of industry or business.

(3) One member from the field of health.

(4) One member from the field of fitness; and be it further

Resolved, That the Members of the Legislature who serve on the task force shall serve only to the extent that their service is consistent with their duties as Members of the Legislature; and be it further

Resolved, That the Senate Committee on Rules shall name the chair of the task force; and be it further

Resolved, That members of the task force shall be at will appointees serving at the pleasure of the Senate Committee on Rules and the Speaker of the Assembly and shall be appointed before July 1, 2002; and be it further

Resolved, That the task force shall convene at the call of the chair and establish procedures before December 31, 2002; and be it further

Resolved, That the members of the task force shall conduct the business of the task force on a volunteer basis and shall not receive a salary for services nor be reimbursed for travel and other expenses incurred in the performance of their duties as task force members; and be it further

Resolved, That the task force shall have all of the following duties:

(a) To meet twice a year to discuss strategies. The task force shall strive to generate media and public interest in the activities of the task force and its annual meeting in a manner that elevates the importance of healthy and fit schools and workplaces in the minds of all Californians.

(b) To produce a Web site before December 31, 2003, and to publicize the task force mission statement and inform visitors of resources available to California citizens, schools, and companies. Features shall include a library of wellness tips, a downloadable wellness handbook, case studies of successful school and corporate wellness programs, including individual success stories, and biographies of task force members.

(c) To publish a wellness handbook before December 31, 2003, that offers step-by-step instructions for implementing fitness wellness programs. The handbook shall be made available in booklet form and downloadable pdf form.

(d) To generate media attention for the task force to increase awareness of wellness issues.

(e) To submit a report on the work of the task force to the Legislature on or before June 30, 2004; and be it further

Resolved, That the task force shall create two subcommittees, one on youth wellness, and another on corporate wellness, to specialize work and expertise. Other subcommittees may be created as the members of the task force deem appropriate. Each subcommittee shall report on its work and findings to the entire task force; and be it further

Resolved, That the task force is authorized to accept private funds and in-kind donations to pay expenses incurred in conducting its business. These expenses include, but are not limited to, staff, administrative, meeting, and publication expenses; and be it further

Resolved, That the task force shall cease to exist on July 1, 2004, unless a later enacted resolution that is enacted before that date deletes or extends that date.

RESOLUTION CHAPTER 112

Senate Joint Resolution No. 3—Relative to reproductive rights.

[Filed with Secretary of State September 17, 2001.]

WHEREAS, Reproductive rights are central to the ability of women to exercise their full rights under federal and state law; and

WHEREAS, Abortion has been a legal and constitutionally protected medical procedure throughout the United States since the United States Supreme Court decision in *Roe v. Wade* (1973) 410 U.S. 113; 35 L.Ed.2d 147; and

WHEREAS, The 1973 United States Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of states to restrict the right of a woman to choose to terminate a pregnancy; and

WHEREAS, Women should not be forced into illegal and dangerous abortions, as they often were prior to the *Roe v. Wade* decision; and

WHEREAS, Every effort should be made at the state and federal level to protect *Roe v. Wade*; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to take necessary action to preserve the integrity of the United States Supreme Court decision in *Roe v. Wade* because it was an appropriate decision and secures an important constitutional right; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, the Attorney General of the United States, the Chief Justice of the United States, and the Secretary of the United States Department of Health and Human Services.

RESOLUTION CHAPTER 113

Senate Joint Resolution No. 8—Relative to social security.

[Filed with Secretary of State September 17, 2001.]

WHEREAS, For more than 20 years, the Older Women's League has served as a voice for the concerns of midlife and older women; and

WHEREAS, The Older Women's League has put forth the following principles regarding women and Social Security:

(1) Social Security must always remain an earned right. America's government has a contract with its older citizens to enable them to have a secure retirement. Social Security is an integral component of that compact, and must always provide equitable coverage for those who have paid for it.

(2) Social Security should be an equitable program. Women, the disabled, racial and ethnic minorities, low- and moderate-income working people, and families must all be treated in a way that will provide fair and equal outcomes today and in the future. Structural barriers in the design of the Social Security system that have the unintended consequence of creating inequities must be removed for future recipients.

(3) Social Security should be genuinely gender-neutral in its outcomes. The specific inequities faced by women, caused by their traditional employment histories and life patterns, must be specifically addressed so that women of future generations will, when they retire, receive all the benefits to which they are entitled.

(4) Social Security should provide adequacy-maintaining benefit levels for all recipients. As pension coverage and savings decline for many persons, a larger proportion of retirement income will come from Social Security. Any proposed "across the board" benefit cuts implemented in efforts to maintain the program's solvency would disproportionately harm women and minorities; temporary, seasonal and part-time workers; and the chronically under- and unemployed.

(5) All existing and new revenue sources must be explored before any changes in Social Security's structure are undertaken to assure its future solvency. Modification of existing program fundamentals, such as the calculations of cost-of-living increases through the Consumer Price Index, changes in the retirement age, and raising the floor for the taxation of benefits; as well as ideas such as income caps, earnings sharing, taxation of unearned income, shifts in the allocation of spousal and survivor benefits, and the use of general revenues, must be carefully analyzed for their consequences for women, and their distributional impact generally, before any radical changes that could destroy the foundation of the program are proposed.

(6) Social Security must keep Americans secure. No changes should affect current recipients.

(7) Major changes in Social Security must not be made in isolation. Any changes in benefits or revenues must be considered in the context of projected changes in Medicare, medicaid, private retirement benefits and other aspects of the government's social insurance programs that have a profound impact on women's lives.

(8) Information on the impact of Social Security reform must be provided to the public by the Social Security Administration. Adequate funding should be provided for comprehensive public education about Social Security and any changes being proposed. The distributional and other effects of structural reform and other proposed policy options for Social Security and other programs administered by the Social Security Administration must be analyzed and made publicly available; and

WHEREAS, The Older Women's League expresses concern that a federal commission has been directed to recommend that part of the Social Security system be privatized, as follows:

The President's Commission to Strengthen Social Security (hereafter "the Commission") has been ordered to recommend a plan in which the outcome, privatization, is already predetermined. While the Commission has been instructed to report its recommendations or a plan to alter the Social Security system, the President has provided a "roadmap of six principles" that the Commission must follow. One of these principles is that the plan must include "individually controlled, voluntary personal retirement accounts." Thus, the Commission is not required to conduct a study of whether privatization is feasible or advisable, but rather it is required to recommend a plan to privatize a portion of the existing Social Security system; and

WHEREAS, The Older Women's League points out that women have more to lose from privatization due to factors such as the following:

(1) Many older women depend almost entirely on the Social Security system for their income. Nearly half of women over 65 years of age rely on Social Security for 90 percent of their retirement income.

(2) Women experience more years out of the labor market as they volunteer their time to raise families and care for family members. This work pattern reduces their contributions into the Social Security system.

(3) A system of private accounts would disadvantage women since they would start with less to invest, due to lower annual salaries, and would have fewer working years for private account funds to accumulate. Thus, American workers stand to lose from privatization and women in the workforce would be especially hard hit.

(4) Women would lose the often desperately needed cost-of-living adjustment (COLA) built into the current Social Security program, and because of their longevity would face the very real possibility of outliving their assets. Most women, particularly those receiving the smallest benefits, would receive even less income under privatization

schemes than under the current system. There is not a single private annuity available today that provides protection against inflation; and

WHEREAS, Privatization accounts may undermine the promise that Social Security has offered to Americans for 66 years. By allowing individuals to withhold part of their contributions, the financial viability of the entire Social Security system will suffer, and its social insurance principle will be undermined. Withholding funds from the Social Security Fund does nothing to ensure the solvency of Social Security in the future, when the demands on the system will be greater. Diverting funds away from Social Security will serve to accelerate the time when the Social Security Fund will have insufficient funds to pay all beneficiaries; and

WHEREAS, Privatization fundamentally changes the structure of the system from one based on guaranteed benefits and shared risk to a system based on individual investments and individual risk. The fall in the stock market in the year 2000 shows that investments are not guaranteed, and indicate that privatized benefits can be placed at risk; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature endorses these principles and concerns; and be it further

Resolved, That the federal government is respectfully requested to take appropriate steps to implement the principles and address the concerns expressed by the Older Women's League in making changes to the Social Security system; and be it further

Resolved, That the Senate and Assembly of the State of California oppose privatizing Social Security; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States and to the President's Commission to Strengthen Social Security.

RESOLUTION CHAPTER 114

Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 2.5 to Article II thereof, relating to suffrage.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2001–02 Regular Session commencing on the fourth day of December 2000, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 2.5 to Article II thereof, to read:

SEC. 2.5. A voter who casts a vote in an election in accordance with the laws of this state shall have that vote counted.

RESOLUTION CHAPTER 115

Assembly Joint Resolution No. 15—Relative to border crossing deaths.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, On May 24, 2001, following an extensive rescue search by the United States Border Patrol, 25 migrants who were abandoned by their smugglers were found in the Cabeza Prieta National Wildlife Refuge in southwest Arizona; and

WHEREAS, After being driven for one and one-half hours through the wildlife refuge, the migrants were told by the smugglers that it was only a short walk to a nearby highway; and

WHEREAS, In fact, in order to reach their destination the migrants were required to travel across 70 miles of harsh desert in an area known as “The Devil’s Path” and endure air temperatures in excess of 115 degrees and desert floor temperatures of 130 degrees; and

WHEREAS, Fourteen of those victims died of exposure and dehydration and 11 survivors were hospitalized in the deadliest crossing of the border since 1987, when 18 Mexican men died in a locked boxcar near Sierra Blanca, Texas; and

WHEREAS, Since 1994, border enforcement initiatives such as “Operation Gatekeeper” on the California-Mexico border have increased patrols and constructed steel walls near urban areas, forcing migrants to make more dangerous crossings in rural, often open desert areas; and

WHEREAS, Most migrants are unaware and unprepared to make a desert crossing, thereby leading to a substantial increase in fatalities due to dehydration in the summer and hypothermia in cold weather; and

WHEREAS, Deaths of migrants along the desert areas of the border have increased exponentially since the implementation of these initiatives, with reported deaths increasing from 25 in 1994 to 369 in 1999 and 491 in 2000, according to figures released by the Mexican

government, as well as an unknown number of undiscovered and unreported deaths; and

WHEREAS, As a result of the increase in border crossings and deaths in these desert areas, concerns have been expressed by humanitarian organizations, civil rights organizations, churches, and the Mexican government that the United States Border Patrol's current enforcement program effectively is operating as a channeling operation, rather than a general border interdiction program; and

WHEREAS, Immediately after this incident both the United States and Mexican governments jointly announced that they were launching an investigation of the incident, issued a statement condemning the actions of smugglers, and reaffirmed their commitment to combat the trafficking of migrants; and

WHEREAS, Both governments also recognized the need for the two nations to continue to work together to reach agreements on migration and border safety; and

WHEREAS, President George W. Bush and President Vicente Fox have established a high-level working group on migration cochaired by Attorney General John Ashcroft and Secretary Colin Powell of the United States and by Mexico's Foreign Secretary and its Secretary of Government; and

WHEREAS, This working group on migration and border safety plans to continue to meet to discuss specific measures to prevent future occurrences of these tragedies and to promote safe and orderly migration; and

WHEREAS, At a minimum, the potential solutions to this tragic problem require a comprehensive examination of the consequences of border initiatives, enhanced investigations by the Mexican government of criminal gangs of smugglers, providing the United States Border Patrol with increased search and rescue resources such as lifesaving gear and emergency medical training, and consensus on a long-term agreement between the United States and Mexico on migration and border security policies; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the President and Congress of the United States and the United States Border Patrol to proceed in a cooperative effort with the Mexican government through the working group on migrations and border safety to achieve a comprehensive examination of border safety and migration issues, an assessment of the impact of United States border initiatives, enhanced investigations and prosecutions of criminal gangs of smugglers, and increasing search and rescue operations along the border; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, all members of the Congress of the United States, and the Mexican Consulate in Washington, D.C.

RESOLUTION CHAPTER 116

Assembly Joint Resolution No. 17—Relative to veterans' home loan programs.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The States of Alaska, California, Oregon, Texas, and Wisconsin have established veterans' home loan programs; and

WHEREAS, The States of Alaska, California, Oregon, Texas, and Wisconsin have authority in the Internal Revenue Code to issue qualified veteran mortgage bonds to finance their respective veteran home loan programs; and

WHEREAS, Veterans' eligibility under current federal tax law restricts the eligibility to veterans who served on active duty prior to January 1, 1977; and

WHEREAS, The federal tax law devalues the service to our country given by those men and women who have served in the military of the United States since 1977 by denying them access to a benefit that has been available to their counterparts from other eras; and

WHEREAS, Service in uniform should be accorded the same respect and stature irrespective of the moment in time during which it was provided. The men and women who have served since 1977 should have the same opportunity to take root in the communities they have defended as was offered those who "made the world safe for democracy" in World War II, or were called upon to "pay any price, bear any burden, support any friend or oppose any foe to ensure the survival and success of liberty..." during the Vietnam and Cold War eras; and

WHEREAS, The Directors of Veterans Affairs of the States of Alaska, California, Oregon, Texas, and Wisconsin are desirous of extending their respective veteran home loan programs to include the men and women of the United States of America who are dispatched to participate in any conflict that has occurred or will occur on or after January 1, 1977; and

WHEREAS, Nearly 3 million veterans reside in California. Of those, 1.05 million, began their active military service on or after January 1, 1977, and over one-quarter million of those served in Desert Storm; and

WHEREAS, Since 1922, California has operated, at no expense to its General Fund, the Cal-Vet Farm and Home Loan Program. Cal-Vet is a

qualified veterans mortgage bond (QVMB) program that has helped 408,000 California veterans become homeowners; and

WHEREAS, Opening participation in this home loan benefit to post-1976 veterans requires no direct budget expenditure by Congress and the well-established benefits of home ownership to local communities will be enhanced and expanded; and

WHEREAS, Veterans of all conflicts should receive benefits consistent with the benefits available to veterans of previous armed conflicts; and

WHEREAS, Those veterans have been qualified for eligibility into congressionally chartered veterans' organizations by prior acts of the Congress of the United States; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to urge the Congress of the United States to amend paragraph (4) of Section 143(l) of the Internal Revenue Code of 1986 to read: “(6) Qualified veteran—For purposes of this subsection, the term ‘qualified veteran’ means any veteran—(A) who meets such requirements as may be imposed by the State law pursuant to which qualified veterans’ mortgage bonds are issued”; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Speaker of the House of Representatives, the President of the Senate, and each Member in the Congress of the United States.

RESOLUTION CHAPTER 117

Assembly Joint Resolution No. 18—Relative to child support automation systems.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, California and other states have been subject to federal penalties since 1998 due to their failure to fully implement a certified statewide child support automation system; and

WHEREAS, These penalties, which progressively increase from 4 percent to 30 percent of the federal share of the Child Support Services program’s administrative costs, are levied against the state until the state has a certified statewide automation system in place; and

WHEREAS, California will reach the 30 percent penalty level in the 2002–03 federal fiscal year; and

WHEREAS, California is expected to incur a penalty of approximately \$113.5 million for the 2001–02 federal fiscal year, \$163.2 million for the 2002–03 federal fiscal year, and \$197.6 million for the 2003–04 federal fiscal year; and

WHEREAS, California’s child support automated system is expected to be operational by the 2006–07 federal fiscal year, by which time California’s cumulative penalties will have reached over \$1 billion; and

WHEREAS, California has increased program spending by an average of 17 percent for the last two years and that increase in program spending has increased the federal penalty by increasing the federal base on which the penalty is calculated, which means that for every state general fund dollar spent, it must budget an additional \$0.58 to cover penalties; and

WHEREAS, The federal penalties have served their intended purpose by capturing the state’s attention regarding the importance of a statewide child support automation system; and

WHEREAS, Effective January 2000, California significantly restructured its child support program to include the creation of a new Department of Child Support Services and new local child support agencies; and

WHEREAS, California has set a strong course toward securing a statewide automation system that will comply with all the federal certification requirements and improve program performance; the new Department of Child Support Services has been charged as the owner of the California Child Support Automation Project and the Franchise Tax Board is responsible for procuring, developing, implementing, and operating the system; and

WHEREAS, California is in compliance with a federal Department of Health and Human Services approved corrective action plan governing the development and implementation of a new automated system; and

WHEREAS, The federal penalties no longer serve their intended purpose and in fact: (a) penalize the state for increasing its spending on program improvements and automation development; (b) force system procurement and technology decisions to focus on avoiding federal penalties, rather than prudent technology goals and system objectives; and (c) reduce the ability of the program to continue to collect child support payments for largely low-income families who have left the welfare system or are able to avoid relying on welfare; and

WHEREAS, The Legislature supports the policy directive of the National Governors Association which states, in part, that the governors are interested in working with Congress and the Bush administration to develop options for penalty reinvestment for child support penalties; and

WHEREAS, The Legislature supports the American Public Human Services Association’s policy which states, in part, that accountability

for completing program or technology requirements is appropriate, but that accountability should not impede a state's ability to direct resources to the problem or to invest in other program initiatives and that the ultimate goal is to ensure systems and policies that improve services to children and families, and achieve the Congressional objectives for the child support program; and

WHEREAS, The State of California is working in partnership with the federal Department of Health and Human Services to implement a statewide system that complies with federal standards and meets all performance measures; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the Congress of the United States, and each Senator and Representative from California in the Congress of the United States to enact legislation to allow states that have been assessed federal penalties to reinvest those child support automation penalties in child support program improvements and automation system development, which would allow California and other states to enhance and improve their child support automation systems; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives, the President of the Senate, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 118

Assembly Joint Resolution No. 20—Relative to Filipino veterans.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The Philippine Islands, as a result of the Spanish-American War, were a possession of the United States between 1898 and 1946; and

WHEREAS, In 1934, the Philippine Independence Act (P.L. 73-127) set a 10-year timetable for the eventual independence of the Philippines and in the interim established a government of the Commonwealth of the Philippines with certain powers over its own internal affairs; and

WHEREAS, The granting of full independence ultimately was delayed for two years until 1946 because of the Japanese occupation of the islands from 1942 to 1945; and

WHEREAS, Between 1934 and the final independence of the Philippine Islands in 1946, the United States retained certain sovereign powers over the Philippines, including the right, upon order of the

President of the United States, to call into the service of the United States Armed Forces all military forces organized by the Commonwealth government; and

WHEREAS, President Franklin D. Roosevelt, by Executive order of July 26, 1941, brought the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East under the command of Lieutenant General Douglas MacArthur; and

WHEREAS, Under the Executive Order of July 26, 1941, Filipinos were entitled to full veterans benefits; and

WHEREAS, Approximately 200,000 Filipino soldiers, driven by a sense of honor and dignity, battled under the United States Command after 1941 to preserve our liberty; and

WHEREAS, The vast majority of American soldiers who opposed the Japanese invasion of the Philippines from December 1941 through March 1942 were Filipinos, who gallantly fought down the length of the Bataan peninsula, and endured unbearable hardships during the siege of Corregidor; and

WHEREAS, Following the surrender of Corregidor Filipino soldiers, isolated from the rest of the world with only the hope that American forces might someday return, courageously waged guerrilla warfare against the Japanese occupation; and

WHEREAS, Filipino soldiers fought bravely alongside returning Allied forces to liberate the Philippines and restore order in the war-torn islands until the official end of hostilities in 1947; and

WHEREAS, There are four groups of Filipino nationals who are entitled to all or some of the benefits to which United States veterans are entitled. These are:

(1) Filipinos who served in the regular components of the United States Armed Forces.

(2) Regular Philippine Scouts, called "Old Scouts," who enlisted in Filipino-manned units of the United States Army prior to October 6, 1945. Prior to World War II, these troops assisted in the maintenance of domestic order in the Philippines and served as a combat-ready force to defend the islands against foreign invasion, and during the war, they participated in the defense and retaking of the islands from Japanese occupation.

(3) Special Philippine Scouts, called "New Scouts," who enlisted in the United States Armed Forces between October 6, 1945, and June 30, 1947, primarily to perform occupation duty in the Pacific following World War II.

(4) Members of the Philippine Commonwealth Army who on July 26, 1941, were called into the service of the United States Armed Forces. This group includes organized guerrilla resistance units that were recognized by the United States Army; and

WHEREAS, The first two groups, Filipinos who served in the regular components of the United States Armed Forces and Old Scouts, are considered United States veterans and are generally entitled to the full range of United States veterans benefits; and

WHEREAS, The other two groups, New Scouts and members of the Philippine Commonwealth Army, are eligible for certain veterans benefits, some of which are lower than full veterans benefits; and

WHEREAS, United States veterans medical benefits for the four groups of Filipino veterans vary depending upon whether the person resides in the United States or the Philippines; and

WHEREAS, The eligibility of Old Scouts for benefits based on military service in the United States Armed Forces has long been established; and

WHEREAS, The federal Department of Veterans Affairs operates a comprehensive program of veterans benefits in the present government of the Republic of the Philippines, including the operation of a federal Department of Veterans Affairs office in Manila; and

WHEREAS, The federal Department of Veterans Affairs does not operate a program of this type in any other country; and

WHEREAS, The program in the Philippines evolved because the Philippine Islands were a United States possession during the period 1898–1946, and many Filipinos have served in the United States Armed Forces, and because the preindependence Philippine Commonwealth Army was called into the service of the United States Armed Forces during World War II (1941–1945); and

WHEREAS, Our nation has failed to meet the promises made to those Filipino soldiers who fought as American soldiers during World War II; and

WHEREAS, The Congress passed legislation in 1946 limiting and precluding Filipino veterans that fought in the service of the United States during World War II from receiving most veterans benefits that were available to them before 1946; and

WHEREAS, Many Filipino veterans have been unfairly treated by the classification of their service as not being service rendered in the United States Armed Forces for purposes of benefits from the federal Department of Veterans Affairs; and

WHEREAS, All other nationals who served in the United States Armed Forces have been recognized and granted full rights and benefits, but the Filipinos, as American nationals at the time of service, were and still are denied recognition and singled out for exclusion, and this treatment is unfair and discriminatory; and

WHEREAS, On October 20, 1996, President Clinton issued a proclamation honoring the nearly 100,000 Filipino veterans of World War II, soldiers of the Philippine Commonwealth Army, who fought as

a component of the United States Armed Forces alongside allied forces for four long years to defend and reclaim the Philippine Islands, and thousands more who joined the United States Armed Forces after the war; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States during the First Session of the 107th Congress to take action necessary to honor our country's moral obligation to provide these Filipino veterans with the military benefits that they deserve, including, but not limited to, holding related hearings, and acting favorably on legislation pertaining to granting full veterans benefits to Filipino veterans of the United States Armed Forces; and be it further

Resolved, That the Clerk of the Assembly transmit a copy of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 119

Assembly Joint Resolution No. 21—Relative to International Literacy Day.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, More than 27 million Americans are illiterate; and

WHEREAS, More than 20 percent of adults read at or below a fifth-grade level; and

WHEREAS, Over 40 million Americans age 16 and older have significant literacy needs; and

WHEREAS, Literacy is the ability to read, write, and speak proficiently, to compute and solve problems, and to use technology in order to become a lifelong learner and to be effective in the family, in the workplace, and in the community; and

WHEREAS, Illiteracy affects a multitude of social and economic issues from juvenile delinquency and welfare dependency to unemployment, low productivity, costly errors in the workplace and an inability to read employers' health and safety regulations; and

WHEREAS, Our future depends on education and education begins with literacy; and

WHEREAS, Reading and writing are the foundation for all school-based learning. Reading is the basic skill that enables individuals to learn the major subjects—including history and social studies, the

language arts, science, and mathematics. Writing allows students to communicate their ideas effectively and to show what they have learned; and

WHEREAS, Every individual needs a range of literacy skills to achieve their personal life goals, pursue a successful career, and play an active role as a citizen; and

WHEREAS, High levels of literacy also enable individuals to keep pace with changing educational expectations and technologies and support the educational attainments of their families; and

WHEREAS, Collaborative, multidisciplinary, after school intensive reading literacy programs are a proven method of establishing and increasing literacy; and

WHEREAS, In small classes, tutors and instructors can help students improve their functional literacy; and

WHEREAS, We should ensure that all Americans with literacy needs have access to services that can help them gain the basic skills necessary for success in the workplace, family, and community in the 21st century; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby urges the President and Congress of the United States to fully support September 8, 2001, as International Literacy Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 32—Relative to transportation funding.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The State of California is expected to experience dramatic population growth of nearly 11 million persons in the next 20 years, while relatively little new funding is expected for new highway construction or additional public transit if the state continues to rely on existing revenue sources; and

WHEREAS, Even with new revenues, it will be difficult for the state to maintain the existing transportation system and target its remaining resources to the best performing investments; and

WHEREAS, Transportation planning agencies throughout the state are responsible for preparation of the Regional Transportation Plans (RTP) and the Regional Transportation Improvement Programs (RTIP) under Sections 65080 and 65082 of the Government Code; and

WHEREAS, Transportation planning agencies are dependent on transportation revenue available under Section 7104 of the Revenue and Taxation Code, relating to the Transportation Investment Fund; and

WHEREAS, The reasons for the revenue shortfall in funding the state's transportation system include the projected loss of gasoline tax revenues, the projected costs of operating and maintaining the existing transportation system, and the end of existing local transportation sales taxes in several counties throughout California; and

WHEREAS, Technological improvements required to meet emission reductions will result in a motor vehicle fleet that will likely consume less gasoline and rely on alternative energy sources; and

WHEREAS, The potential market penetration of alternative fuel vehicles, in addition to more fuel-efficient vehicles, would erode the revenues generated by gasoline sales and would diminish the gas tax as a reliable source of transportation revenue; and

WHEREAS, Further potential erosion of transportation revenues may be caused by increases in Internet spending, in which consumers do not pay local and state sales taxes; and

WHEREAS, Local sales taxes for transportation as well as Transportation Development Act revenues, which are derived from a $\frac{1}{4}$ percent sales tax, would be directly impacted by the current trends in retail sales; and

WHEREAS, Much of the revenue for transportation generated from excise taxes, sales taxes, or transit fares, depends on overall economic conditions; and

WHEREAS, Transportation planning agencies throughout California may experience revenue shortfalls in the event of a potential decrease in state transportation revenue; and

WHEREAS, Funding shortfalls throughout the state would likely result in the inability of governments to maintain and make improvements in the existing state transportation system; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is in the best interest of the people of the State of California to prepare a careful study of potential decreases in transportation revenue affecting transportation planning agencies in California; and be it further

Resolved, That the California Transportation Commission, working with the Department of Transportation and in consultation with the regional transportation planning agencies authorized to prepare and

adopt regional transportation plans under Sections 65080 and 65082 of the Government Code, is requested to produce and submit to the Assembly and Senate Committees on Transportation, by January 1, 2003, a study of potential decreases in transportation revenue for transportation planning agencies, including, but not be limited to, identifying all of the following:

(1) Whether a decrease may potentially occur in transportation revenue available to transportation planning agencies under Section 7104 of the Revenue and Taxation Code, relating to the Transportation Investment Fund.

(2) Whether transportation planning agencies in California are likely to in fact experience funding shortfalls from the potential expiration of local transportation sales taxes, a decline or leveling in state-supplied revenues and funding assistance, or shortfalls in other funding sources.

(3) Whether transportation planning agencies are anticipating transportation funding shortfalls and how those agencies are addressing the potential shortfalls.

(4) Whether cities, counties, or cities and counties are likely to experience transportation funding shortfalls from insufficient, declining, or expiring funding sources.

(5) Suggested legislative and other remedies to address potential funding shortfalls; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies to the California Transportation Commission, the Department of Transportation, regional transportation planning agencies, and to the fiscal and transportation policy committees of the Legislature.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 73—Relative to the California State University.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The faculty of the California State University must comply with the highest standards of educational achievement, experience, and professional conduct, as exemplified by the advanced degrees, and other academic honors, that they have earned; and

WHEREAS, The appointment of fully qualified faculty members ensures that the students of the California State University receive instruction and guidance from individuals with the education, background, and experience to be recognized as experts in their fields of academic endeavor; and

WHEREAS, Tenured and tenure-track faculty bear the primary responsibility for student advising, program development and revision, and participation in shared governance; and

WHEREAS, Before tenure may be awarded to a member of the California State University faculty, that person must possess a record of demonstrated excellence in the performance of his or her professional duties; and

WHEREAS, Students enrolled at the California State University must be provided the full range of academic services by the most qualified faculty members that the university can employ; and

WHEREAS, While the assigned workload of faculty members in tenure and tenure-track appointments includes duties related to student advising, professional development, and the design of curricula, the assigned workload of faculty members in temporary appointments generally does not include those duties; and

WHEREAS, Appointments of faculty to tenured and tenure-track positions recognize a mutually beneficial relationship that contributes to the long-term development of the faculty member and the quality of the instructional program available to California State University students; and

WHEREAS, Tenured faculty of the California State University who have recently retired have often been replaced by faculty members in temporary appointments rather than by tenure-track faculty; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California urges the Trustees of the California State University to study its faculty hiring practices over the past decade in order to effectuate improvements in those practices; and be it further

Resolved, That the Legislature urges the Trustees of the California State University, the Academic Senate of the California State University, and the California Faculty Association to jointly develop a plan that will accomplish all of the following:

(a) Raise the percentage of tenured and tenure-track faculty to at least 75 percent, with the unit of measurement to be developed jointly by the entities described in this resolved clause.

(b) Provide that no lecturers currently employed by the university will lose their jobs as a result of implementing the plan.

(c) Provide that qualified lecturers will be seriously considered for tenure-track positions.

(d) Provide for the continued improvement of faculty diversity; and be it further

Resolved, That the California State University is urged to provide a report outlining the plans developed by the entities described in the

previous resolved clause to the Legislature by May 1, 2002; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Trustees of the California State University, the Academic Senate of the California State University, and the California Faculty Association.

RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 77—Relative to assisted living for the elderly and disabled.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The number of elderly and disabled Americans is dramatically increasing; and

WHEREAS, The number of people who are 65 years of age and older in California will increase 23 percent to 4.5 million by the year 2010; and

WHEREAS, The elderly population growth rate will be higher in California than in the country as a whole and, as a result, the need for community-based services is expected to increase; and

WHEREAS, Residential care facilities provide assisted living services through supplying housing and providing or arranging for a range of other services to over 140,000 elderly and disabled individuals in California; and

WHEREAS, Assisted living is an option that allows elderly and disabled individuals a choice in their living environment, including the choice to remain in the least restrictive and most homelike environment as they age or grow frail; and

WHEREAS, Elderly and disabled individuals should have access to appropriate health care and personal assistance, regardless of their income level, health status, or choice of housing arrangement; and

WHEREAS, The California Center for Assisted Living proudly joins the National Center for Assisted Living in sponsoring Assisted Living Week of 2001; and

WHEREAS, The theme of National Assisted Living Week 2001 is “Sharing the Wisdom of Generations,” which highlights the knowledge, experiences, and history imparted from generation to generation and ensconced in today’s seniors; and

WHEREAS, The California Assisted Living Facilities Association and the California Association of Homes and Services for the Aging join the California Center for Assisted Living in the celebration of assisted living in the State of California; now, therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby proclaim the week of September 9 through September 15, 2001, as Assisted Living Week in California and encourages all citizens to visit friends and loved ones who reside in residential care facilities for elderly and disabled individuals and also to learn more about assisted living services and how vital these services are to residents; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor, and to the author for appropriate distribution throughout the community.

RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 80—Relative to school crossing guards.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, In the task of keeping our children safe, the genuine heroes of the day are those who keep alert to the dangers that threaten the lives of our most vulnerable citizens and it is they who regularly act with unflinching and selfless bravery, often placing themselves at risk of physical harm, all in the interest of keeping our children safe; and

WHEREAS, These heroes bear the title of “School Crossing Guard,” a position that is necessary for the protection of children and a job from which one derives a tremendous sense of personal satisfaction and respect; and

WHEREAS, Great accolades are deserved by these heroes, our school crossing guards, Californians who, if gathered together from the wide expanses of this great state, would number into the thousands and would represent a collection of our finest residents, for these are the good people who believe in selfless duty, who practice kindness, who never hesitate to act bravely, and who face both the elements and their fellow person with a smile and with the confidence and simple gratitude that stems from doing something important for the community; and

WHEREAS, The toll to children who are struck by a car while walking make this the leading cause of death for children between five and 12 years of age, a fact that puts upon our society even greater impetus to view the School Crossing Guard program as one of the best and most cost-efficient ways to protect the lives of our children; and

WHEREAS, This state, which has long been the chief agent in the conduct of the School Crossing Guard program, respectfully acknowledges and offers profound thanks to local governments and

school districts, for collectively providing our children with effective School Crossing Guard programs; and

WHEREAS, It is necessary that recognition be given to our school crossing guards for their civic spirit and personal bravery, and to our cities and school districts for providing this essential service; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature does hereby designate the week commencing September 3, 2001, as “School Crossing Guards Week,” and that the Members of the Legislature wish to offer their most sincere thanks, on behalf of the people of this great state, to our school crossing guards, for keeping our children safe, for displaying warmth of spirit in the conduct of their duties, and for the selfless acts of bravery; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 124

Assembly Concurrent Resolution No. 87—Relative to Military Families Recognition Week.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Military families play an integral role in ensuring the effectiveness of America’s Armed Forces; and

WHEREAS, Without fanfare, military families selflessly provide behind-the-scenes support to service members, their units, and their commands worldwide; and

WHEREAS, Their devotion to their loved ones, the military, and their country is unfaltering; and

WHEREAS, Military families frequently and bravely bid farewell, as wives, husbands, children, and parents depart for missions in far off and often hostile areas; and

WHEREAS, Military families face abrupt separations which often create single-parent families to endure not only the absence of a loved one but the hardship of rearing children alone for extended periods of time; and

WHEREAS, Military families are uprooted from their hometowns and moved to foreign soil for tours in isolated locations away from friends and relatives; and

WHEREAS, As they adjust to conditions around the world, military families learn to do without many of the conveniences that most Americans consider part of their basic lifestyle; and

WHEREAS, Military families quickly and adeptly transform unfamiliar quarters into welcoming homes, forming bonds of friendship with others in the unit, and sharing their hopes, dreams, and aspirations; and

WHEREAS, Military families in foreign lands act as goodwill ambassadors, representing all Americans; and

WHEREAS, Military families are committed to preserving freedom and democracy for all, and these families provide the continuity and stability essential to the well-being of our soldiers, sailors, airmen, Marines, and the members of our Coast Guard, National Guard, and the Reserves; and

WHEREAS, We have long recognized the importance of families in the retention and readiness of military members; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature, in honor of military families throughout the world who are supporting the American men and women who defend the cause of freedom at home and abroad, hereby designates the week of November 18 through November 24, 2001, as Military Families Recognition Week.

RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 88—Relative to the Veterans of Foreign Wars Month.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The Veterans of Foreign Wars (VFW) traces its beginnings to 1899 when veterans of Cuba and the Philippines met separately to form organizations that would represent them in their quest for medical care and pensions; and

WHEREAS, This was especially important since the government provided little for them in benefits or care, even for those disabled or those who suffered from tropical diseases; and

WHEREAS, In September, 1899, the first group was formed in Columbus, Ohio, and was called “The American Veterans of Foreign Service”; and

WHEREAS, In December, 1899, “The Society of the Army of the Philippines” was formed in Denver, Colorado and three separate groups

of Cuban, Chinese, and Philippine service veterans were formed in Pennsylvania; and

WHEREAS, By 1914, the need to have one all-encompassing national veterans organization was obvious, and, on the eve of World War I (WWI), an amalgamation of the separate groups took place and the name “Veterans of Foreign Wars of the United States” was adopted; and

WHEREAS, Following WWI, the VFW grew rapidly, and during the 1920’s, it was instrumental in the creation of the United States Veterans Bureau, later to become the Department of Veterans Affairs with a representative in the President’s Cabinet, another major accomplishment of the VFW; and

WHEREAS, Throughout the 20th century, the VFW has grown in size and influence, and includes within its ranks veterans of all the wars and conflicts; and

WHEREAS, Across the spectrum of veterans’ entitlements, the VFW has led the way proposing legislation and lobbying Congress for its passage; and

WHEREAS, Today, with over 2,000,000 members, the VFW offers its services to members and nonmembers alike as it continues to fulfill the commitment adopted by its founders in 1899: “Honor the Dead by Helping the Living”; and

WHEREAS, In 2001, the 102nd anniversary of the VFW, we will celebrate over 10 decades of service to veterans and service to the nation through the VFW’s many programs and projects and will set the course for the next 100 years; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is fitting and proper that the Legislature hereby proclaims the month of October 2001, as Veterans of Foreign Wars Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 126

Assembly Concurrent Resolution No. 92—Relative to the California Arts Council.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The year 2001 marks the 25th anniversary of the California Arts Council, which was established in 1976 to encourage artistic awareness, participation, and expression in the arts; and

WHEREAS, The stated mission of the California Arts Council is to make available and accessible quality art that reflects all of California's diverse cultures; to support the state's broad economic, educational, and social goals through the arts; to provide leadership for all levels of the arts community; and to present effective programs that add a further dimension to our cities, our schools, our jobs, and our creative spirit; and

WHEREAS, Nonprofit arts contribute more than \$2 billion to California's economy and \$100 million in state and local tax revenues and provide 150,000 nonprofit arts jobs and an additional 500,000 in commercial entertainment sector jobs; and

WHEREAS, The arts in California are a strong magnet for cultural tourists, resulting in hundreds of millions of dollars annually in spending on food, transportation, and lodging; and

WHEREAS, Research has shown that there is a significant relationship between school children involved in expansive arts programs and increased creative, cognitive, and personal skills needed for academic success; and

WHEREAS, Arts partnership programs give at-risk and underprivileged youth access to the resources needed for lifetime success in the workplace, universities, schools, churches, businesses, and social service agencies; and

WHEREAS, The arts develop essential skills such as creativity, perception, and imagination that fuel California's high-tech and entertainment industries, which are the state's most economically lucrative sectors; and

WHEREAS, As part of its 25th Anniversary celebration, the California Arts Council has launched "The Year of the Arts—2001," a major public outreach and public awareness campaign to generate support for the importance and impact of the arts in California; and

WHEREAS, "The Year of the Arts—2001" is the first major public and private sector partnership in the arts designed to build a media and press foundation as the first phase of a multiyear effort to increase public valuation of the arts; and

WHEREAS, The campaign has two simple messages: (1) that the arts are important to California's economy, to the education and job preparedness of our children, and to civic life throughout the state, and (2) that the arts are everywhere in terms of educating and informing the public about the breadth and depth of the arts in California; and

WHEREAS, The California Arts Council and the California Department of Parks and Recreation are cooperating in a joint pilot project to bring performing artists to 15 state park venues; and

WHEREAS, In addition to these special events, "The Year of the Arts—2001" will sponsor arts activities throughout the year, such as recognizing July as Multicultural Arts Month; August as Music Month;

September as Theater Month; October as National Arts and Humanities Month, including October 10th as California Arts Day; November as Folk Arts Month; and December as Local Arts Month; and

WHEREAS, These special events, commemorations, and other local community events will help change the perception that the arts are not merely a luxury, but an integral part of the economic, educational, and social fabric of our state and our nation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby recognizes and extends congratulations to the California Arts Council on its 25th anniversary and joins in the commemoration of the California Arts Council's "The Year of the Arts—2001" campaign; and be it further

Resolved, That October 10, 2001, is hereby declared California Arts Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 93—Relative to the Donna P. Mauzy Memorial Freeway.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Officer Donna P. Mauzy, a City of San Diego Police Officer, was killed while driving on Interstate Highway 8 in the City of El Cajon, on her way to work, the morning of June 23, 2001; and

WHEREAS, The driver of the vehicle causing the accident was arrested on the scene, on suspicion of vehicular manslaughter and felony driving while under the influence of alcohol; and

WHEREAS, Officer Donna P. Mauzy was an admired and respected veteran of the San Diego Police Department; and

WHEREAS, Officer Donna P. Mauzy also had served as a police officer for the City of El Cajon; and

WHEREAS, Officer Donna P. Mauzy had many close friends in the San Diego Police Department, which were shocked and saddened by the loss of their fellow officer, a tragedy made worse by the involvement of alcohol in the accident; and

WHEREAS, Officer Donna P. Mauzy was survived by her husband, City of San Diego Police Officer Ralph Mauzy, and their son, Danny, and daughter, Stephanie; and

WHEREAS, It would be a fitting tribute to Officer Donna P. Mauzy to name a portion of Interstate Highway 8 as the Donna P. Mauzy Memorial Freeway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature hereby dedicates the portion of Interstate Highway 8 in the City of El Cajon, from State Highway 67 to Greenfield Drive, as the Donna P. Mauzy Memorial Freeway in honor and recognition of San Diego Police Officer Donna P. Mauzy; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 95—Relative to the Randy Bolt Memorial Highway.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, On May 9, 1995, William Randall “Randy” Bolt was killed in a traffic accident while on duty as a special agent with the Department of Justice, Bureau of Narcotic Enforcement; and

WHEREAS, On that date, Randy Bolt was driving eastbound State Route 37, east of Skaggs Island Road, Solano County, California, when at approximately 7:25 a.m., a party driving a vehicle westbound crossed the painted double yellow lines directly into the path of Randy Bolt’s unmarked Department of Justice vehicle; and

WHEREAS, The two vehicles collided head-on and both Randy Bolt and the party driving the other vehicle died instantly; and

WHEREAS, Randy Bolt was only 48 years old at the time of his death; and

WHEREAS, Randy Bolt began his tenure as a law enforcement officer for the State of California in the year 1968 with the Fremont Police Department and subsequent to that employment, he was employed by the Placer County Sheriff’s Department and the San Rafael Police Department; and

WHEREAS, On May 1, 1988, Randy Bolt was appointed to the Department of Justice and assigned to the Bureau of Narcotic Enforcement, Riverside regional office; and

WHEREAS, In January 1990, Randy Bolt was transferred to the Bureau of Narcotic Enforcement, San Francisco regional office where he worked until his untimely death; and

WHEREAS, It is fitting that the Legislature of the State of California honor the memory of Special Agent Randy Bolt, and convey the Legislature's appreciation of his life of public service as a law enforcement officer on behalf of California; and

WHEREAS, It would be a fitting tribute to Randy Bolt to redesignate State Route 37, between State Route 29 and Skaggs Road, as the Randy Bolt Memorial Highway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby redesignates State Route 37, between State Route 29 and Skaggs Road, the Randy Bolt Memorial Highway in honor and recognition of Randy Bolt; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the author for distribution.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 96—Relative to the Joe A. Gonsalves Memorial Interchange.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Joe A. Gonsalves was born to Joaquim Gonsalves and Elvira Silva Gonsalves in Holtville, California, on October 13, 1919; and

WHEREAS, Joe A. Gonsalves was the proud father of nine sons; and

WHEREAS, Joe A. Gonsalves was elected to the City Council of the City of Dairy Valley, now known as the City of Cerritos, in 1958; and

WHEREAS, Joe A. Gonsalves was twice elected the Mayor of Dairy Valley; and

WHEREAS, Joe A. Gonsalves was elected to the California State Assembly, representing the 66th Assembly District, in 1962, being the

first person of Portuguese ancestry to be elected to the California State Legislature; and

WHEREAS, Joe A. Gonsalves during his 12 years in the California Legislature served as Chair of the Assembly Rules Committee, Revenue and Taxation Committee, and the Joint Committee on Rules and, served as a member of the Assembly Education Committee, and the State Allocation Board; and

WHEREAS, Joe A. Gonsalves was honored to have the “Joe A. Gonsalves Elementary School” in the City of Cerritos named for him by the ABC Unified School District Board of Trustees in 1972; and

WHEREAS, Joe A. Gonsalves was honored to have the “Joe A. Gonsalves Park” named for him by the City of Cerritos in 2000; and

WHEREAS, Joe A. Gonsalves authored many key pieces of legislation during his years of public service in the Assembly; and

WHEREAS, Joe A. Gonsalves operated the only three-generation lobbying firm in Sacramento, with his son, Anthony Gonsalves, and his grandson, Jason Gonsalves; and

WHEREAS, Joe A. Gonsalves passed away on July 7, 2000; and

WHEREAS, Section 405 of the Streets and Highways Code as enacted in 1963 described State Highway Route 105 as running from State Highway Route 5, to the junction of State Highway Routes 101 and 110, which would have caused State Highway Route 105 to cut through the Cities of Norwalk and La Mirada; and

WHEREAS, At the requests of the Cities of Norwalk and La Mirada and their residents, Joe A. Gonsalves was instrumental in having Section 405 of the Streets and Highways Code amended in 1968, so that State Highway Route 105 ended at State Highway Route 605 rather than cutting through the Cities of Norwalk and La Mirada; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, that the interchange where State Highway Route 105 connects with State Highway Route 605 be officially named the Joe A. Gonsalves Memorial Interchange; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation, and upon receiving donations from nonstate sources sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 97—Relative to Constitution Week and Constitution Day.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, It is appropriate and fitting that Californians commemorate the historical contributions that the United States Constitution has made to citizens and its significance in preserving the individual freedoms, liberties, and common welfare of the people who live in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares the third week in September as Constitution Week and September 17 as Constitution Day; and be it further

Resolved, That the Governor is hereby requested to proclaim Constitution Week and Constitution Day and that the proclamation shall:

(1) Call upon the news media, educators, state and local officers, professional, business, and labor leaders, and others in positions of authority or influence to bring to the attention of California's citizens the importance of the United States Constitution in shaping and articulating the basic values that underlie the unique character of America civilization and culture, based on the belief that sovereignty emanates from the people who comprise a society and that governmental authority is based upon the consent of the governed.

(2) Encourage elected and appointed officers and employees at all levels of government and in all public and educational institutions to develop new programs and new ideas by which the citizens of this state and nation can better understand and improve the effectiveness of all branches of government established within the American constitutional system.

(3) Direct appropriate officers and agencies to develop recommendations by which federal, state, and local policies for the preservation of historical records can be formulated and put into effect, so that the cultural and informational resources that are essential to a constitutional form of government are preserved and made accessible to present and future generations of citizens.

(4) Remind all citizens that the preservation of the American constitutional form of government, and the freedom and liberty guaranteed by the United States Constitution, are based upon the responsibility of each citizen to uphold and defend the Constitution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 131

Assembly Concurrent Resolution No. 99—Relative to Health Cares About Domestic Violence Day.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Domestic violence is a serious public health problem in California and nationally. Its victims are overwhelmingly women. Nearly one-third of American women report being physically or sexually abused by a husband, boyfriend, or partner at some point in their lives. At least three women are killed by intimate partners every day; and

WHEREAS, California has initiated a vigorous response to domestic violence. Laws have been dramatically strengthened in the past decade. When the California Legislature adopted major welfare reform legislation in 1997, the Legislature decided that counties could temporarily suspend certain welfare requirements for battered women and their children who risk further abuse if forced to comply with those requirements. Clinics and hospitals now must have protocols in place for addressing domestic violence. The California Medical Training Center, created by the Legislature in 1995, provides free training on identification of, and intervention in, domestic violence to health care providers; and

WHEREAS, Most victims of abuse visit a health care provider for routine or emergency care. In addition to immediate trauma and injury, domestic violence often contributes to chronic health problems including migraines, ulcers, back and pelvic pain, and STDs. Domestic violence also interferes with the management of other illnesses. Too often the underlying source of these illnesses goes undetected, since currently less than 10 percent of primary care physicians routinely screen for partner abuse during regular office visits; and

WHEREAS, Properly trained physicians and other health care providers are uniquely positioned to assist domestic violence victims. Domestic violence, like other chronic health problems such as tobacco use and high blood pressure, often requires multiple interventions over time before it is resolved. By routinely screening patients for warning signs of domestic violence, and offering safety information, referrals and followup, health care providers can provide valuable assistance, often before a crisis occurs. “Screening to Prevent Abuse” information is available through the Family Violence Prevention Fund by calling

1-888-Rx-ABUSE toll free or online at <http://fvpf.org/programs/healthcare>. The California Medical Training Center Web site is located at <http://web.ucdmc.ucdavis.edu/medtrng/> and the telephone number is 916-734-4141; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California State Legislature does hereby proclaim October 10, 2001, as Health Cares About Domestic Violence Day. This special day is an opportunity to raise awareness about the importance of health care settings for assessing domestic violence risk, promoting safety planning, and providing information and referrals as part of the routine health care that is provided.

RESOLUTION CHAPTER 132

Assembly Concurrent Resolution No. 100—Relative to Truck Driver Appreciation Week.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Professional truck drivers safely deliver important goods to every home, community, school, and business in the United States, traveling more than 200 billion miles and delivering eight billion tons of freight; and

WHEREAS, The trucking industry generated \$486.1 billion in freight revenues in 2000, and California truck drivers are the backbone of this essential industry; and

WHEREAS, Trucks deliver freight for 57,100 manufacturing companies, supply goods to 164,000 retail stores, stock 72,400 wholesale trade companies, and supply goods to over 36,000 agriculture businesses, while transporting their produce and products to market, all within California; and

WHEREAS, Approximately 79 percent of California communities are served exclusively by trucks; and

WHEREAS, Truck drivers keep the shelves of our local supermarkets fully stocked, play a vital role in bringing the newspaper to front doors every morning, and deliver blood, medicine, and diagnostic equipment to hospitals and clinics; and

WHEREAS, Truck drivers ensure that raw materials and intermediate products for cars, trucks, appliances, and other important consumer goods are delivered to the assembly line safely and on time and then deliver the finished products to stores; and

WHEREAS, The economic system of this country rides on the wheels of trucks; and it is the men and women who drive those trucks that keep that system going; and

WHEREAS, The trucking industry is committed to safe travel for all motorists on California's roads and highways; and

WHEREAS, The California Highway Patrol reports that in the past five years, truck travel in California has increased approximately 60 percent, while the rate of truck involvement in fatal accidents decreased 55 percent; and

WHEREAS, Professional truck drivers have been honored as among the safest drivers on our highways, many receiving awards for extraordinary acts of heroism and bravery, for saving fellow motorists from injury and death; and

WHEREAS, Truck drivers are the unsung heroes of the American highway and the United States economy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims its support for National Truck Driver Appreciation Week by proclaiming the week of August 25 through September 1, 2001, as Truck Driver Appreciation Week in California in honor of those men and women in America who deliver our goods by truck, and encourages businesses, schools, communities, churches, and other organizations to join in this observance by commending professional truck drivers for the vital role they play in the lives of Americans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 133

Assembly Concurrent Resolution No. 103—Relative to prostate cancer.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The American Cancer Society has estimated that 198,100 new cases of prostate cancer will be diagnosed and that 31,500 men will die of the disease in 2001; and

WHEREAS, Although prostate cancer is the most diagnosed nonskin cancer in the United States and comprises more than 15 percent of all nonskin cancer cases, prostate cancer research receives only 5 percent of federal cancer research dollars; and

WHEREAS, African Americans have the highest incidence of prostate cancer in the world; and

WHEREAS, The number of new cases of prostate cancer in California is estimated to be 17,500 in 2001; and

WHEREAS, One in six men will be diagnosed with prostate cancer in his lifetime; and

WHEREAS, Considering the devastating impact of the disease among men and their families, prostate cancer research remains woefully underfunded; and

WHEREAS, It is hoped that more resources devoted to clinical and translational research at the National Institutes of Health will be highly determinative of whether rapid advances can be attained in treatment and of ultimately whether a cure for prostate cancer will be found; and

WHEREAS, Greater awareness of the incidence of prostate cancer is necessary to accomplish these advances; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature hereby proclaims the month of September 2001 as Prostate Cancer Awareness Month; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President of the United States, the Governor of the State of California, the Director of the United States Department of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 104—Relative to California Retired Teachers Week.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, The California Retired Teachers Association was formed by Laura E. Settle 71 years ago during the depths of the Great Depression with the goal of relieving the economic hardships suffered by retired teachers, and has since become a leading advocate for providing teachers, with sufficient retirement income; and

WHEREAS, California Retired Teachers Association also provides continuing support to active and future teachers, including scholarships exceeding \$350,000 a year; and

WHEREAS, All of California's retired teachers share a commitment to improve their communities through volunteer activities; and

WHEREAS, Retired teachers continue to give freely of their own time to support a wide range of charitable and community activities, including volunteer tutoring, participation in Gateway reading and HeadStart programs, service as hospital and hospice aides, providing

transportation for the blind, collecting food and clothing for the needy, caring for the children of teenage parents so that the teens may complete their schooling, and a host of other activities; and

WHEREAS, The annual dollar value of this volunteer time donated by retired teachers exceeded \$24 million during the most recent reporting period for 2001; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in recognition of the vital role retired teachers fulfill in every community in California, and to honor their ongoing commitment to all teachers, we therefore declare the week of October 14 to October 20, 2001 be proclaimed California Retired Teachers Week; be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 107—Relative to commemorative state seals.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, For thousands of years, Native Americans have lived within the boundaries of present day California and Native American names dot the landscape of California; and

WHEREAS, Native Americans were the first Californians, and Californians today should be educated about the enduring legacy of the Native American heritage of our state; and

WHEREAS, In recognition of the continuing influence and contributions of Native Americans, the Legislature declares its intent to memorialize generations of Native Americans in California through a monument at the State Capitol; and

WHEREAS, In addition, the Spanish and Mexican era represents the colonial and the first frontier history of our great state, inasmuch as Spain brought European civilization to California, and Mexico administered California for nearly 25 years as its northernmost frontier; and

WHEREAS, Spanish names dot our landscape, and the pueblos, presidios, missions, and ranchos of Spain established the beginnings of California's political and institutional life; and

WHEREAS, The Spanish era in California dates from approximately 1769 to 1822, inclusive, and the Mexican era of California dates from 1822 to 1848, inclusive, and Californians should be educated about the enduring legacy of the Spanish and Mexican heritage of our state; and

WHEREAS, In recognition of the relationship between Spain and Mexico and California, the Legislature declares its intent to memorialize the Spanish and Mexican era of California through a monument at the State Capitol; and

WHEREAS, The Legislature, through Assembly Concurrent Resolution 57 (Resolution Chapter 104 of the Statutes of 1999) created the 13-member Commemorative Seals Advisory Committee to make recommendations to the Governor and the Legislature regarding the design, construction, and dedication of two commemorative seals, one honoring Native Americans in California and the other honoring California's Spanish and Mexican heritage, for installation on the landing of the upper steps on the west side of the State Capitol on the level below the Great Seal of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commemorative Seals Advisory Committee be extended indefinitely and that existing members of the committee be authorized to continue serving; and be it further

Resolved, That the actions of the committee to date be ratified; and be it further

Resolved, That the committee shall make recommendations to the Legislature regarding the design, construction, and dedication of two bronze commemorative seals, one honoring Native Americans in California, and the other honoring California's Spanish and Mexican heritage, for installation on the steps on the west side of the State Capitol; and be it further

Resolved, That each of the seals be smaller than the Great Seal of California that is located on the landing of the upper steps on the west side of the State Capitol and that each seal be installed on the landing of the steps on the west side of the State Capitol on the level below the Great Seal of California; and be it further

Resolved, That the Chief Clerk of the Assembly provide copies of this resolution to the Governor, the Director of General Services, and the author for appropriate distribution.

RESOLUTION CHAPTER 136

Assembly Concurrent Resolution No. 108—Relative to Veterans Day, 2001.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Today there is, and perhaps there always will be, conflict in the world; but the United States fortunately enjoys peace and freedom; and

WHEREAS, Like other things of great value, this security did not come cheaply, as part of the cost has already been paid by Americans who answered the call to military duty when their country needed them; and

WHEREAS, Those veterans have long answered our nation's call to duty and have served with honor and at great personal cost in undertaking their mission as members of the United States Armed Forces; and

WHEREAS, Another part of freedom's cost must continue to be paid long after the guns have been silenced, and this is the debt that is owed to American veterans; and

WHEREAS, There are three million veterans in the State of California; and

WHEREAS, The people of California have a special affinity for, and are greatly indebted to, the myriad brave men and women in the United States military who serve and have served to protect and defend our precious freedom; and

WHEREAS, All Californians are encouraged to remember the great debt of gratitude that we as free Californians owe to our veterans; and

WHEREAS, Since the days of the American Revolution (1776–81), nearly 42,000,000 patriots have taken up arms to defend America, and to guarantee that the blessings of liberty are indeed secure; and

WHEREAS, The significance of November 11 is that it was originally set aside as Armistice Day in the United States to remember the sacrifices that men and women made during the First World War (1914–18) in order to ensure a lasting peace; and

WHEREAS, Each year, on the 11th day of the 11th month, we pause to look back and reflect with pride and profound gratitude upon the achievements of our nation's veterans; and

WHEREAS, Let us pause and pay homage to the 1,359,114 American soldiers, airmen, Marines, and sailors who perished during our country's 225-year history and the 1,419,971 servicemen and servicewomen who were wounded for the cause of freedom, the security of this most sovereign nation, and the American way of life; and

WHEREAS, Nearly 2,000 Americans are still missing in action (MIA) or unaccounted for from the Vietnam War (1957–75); and countless other Americans remain MIA or unaccounted for from World War II (1939–45), the Korean War (1950–53), and the Persian Gulf War (1991); and

WHEREAS, It is appropriate, on this 83rd anniversary of the first Armistice Day, that California's veterans be commemorated for their heroic efforts in the struggle for democracy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes our nation's veterans for the great service and sacrifices that they have made for our liberty; and be it further

Resolved, That all Californians are encouraged to remember the great debt of gratitude that we as free Californians owe to our veterans, and we freely participate in patriotic activities in our communities; and be it further

Resolved, That the Legislature hereby designates November 11, 2001, as California Veterans Day, 2001 to promote the recognition and appreciation of the great service and sacrifices made by California's veterans in order to secure our liberty; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for distribution.

RESOLUTION CHAPTER 137

Assembly Concurrent Resolution No. 109—Relative to Coastal Cleanup Day.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, California is blessed with an 1,100-mile coastline that is a world-renowned symbol of the meeting of land and sea; and

WHEREAS, California's coastal-related businesses, which include tourism, transportation at the ports, fishing, and recreation, contribute over \$17,000,000,000 per year to the state's economy; and

WHEREAS, These industries have developed as a result of the state's reputation for striking coastal features, clean ocean waters, spectacular views, diversity of marine species, and numerous ocean-based recreational opportunities; and

WHEREAS, Nonpoint source pollution or polluted runoff, including trash, is the state's most significant source of water pollution, impairing estuaries, bays, and nearshore waters along the coast; and

WHEREAS, Last year, more than 43,000 individuals participated in Coastal Cleanup Day, and they picked up more than 700,000 pounds of trash and debris; and

WHEREAS, For economic, aesthetic, and environmental reasons, the quality of California's coast and beaches is a paramount concern to all residents; and

WHEREAS, Coastal Cleanup Day is sponsored by the California Coastal Commission, with local cosponsorship by many civic, community, and corporate organizations; and

WHEREAS, Coastal Cleanup Day is a celebration of individual commitment to preserving our coastal environment; it is a day when tens of thousands of individuals will take to the beaches from San Diego to the Oregon border, to the lakefront of Lake Tahoe, and to the shorelines, inland creeks, rivers, and other waterways throughout California, to collect the debris that fouls our beaches; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in recognition of the common thread of individual action and active commitment to maintaining the beauty and well-being of California's streams, rivers, and ocean, the Legislature hereby proclaims Saturday, September 15, 2001, as the 17th annual Coastal Cleanup Day in California.

RESOLUTION CHAPTER 138

Assembly Concurrent Resolution No. 110—Relative to breast cancer.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Breast cancer is an epidemic that will strike one out of eight women in their lifetime; and

WHEREAS, Breast cancer is the most common form of cancer among women and is second only to lung cancer as the leading cause of cancer deaths among women, both nationally, and in California; and

WHEREAS, In the United States, approximately 40,000 women will die of breast cancer and some 192,000 new cases will be diagnosed in 2001; and

WHEREAS, In the State of California, approximately 4,000 women will die of breast cancer and nearly 21,000 new cases will be diagnosed in 2001; and

WHEREAS, In California, the highest incidence of breast cancer is found in Anglo women, the highest mortality rate occurs among African-American women, and the greatest percentage of late-stage diagnosis occurs among Latino and African-American women; and

WHEREAS, Breast cancer is increasingly being diagnosed among women in their 30's and 40's; and

WHEREAS, More than 70 percent of women with breast cancer exhibit none of the known risk factors; and

WHEREAS, Although evidence is emerging about a link between environmental factors and breast cancer, not enough research is being funded to pursue this link; and

WHEREAS, Despite over 25 years of the “war on cancer,” there is still no known cause, cure, or method of preventing breast cancer; and

WHEREAS, While mammography remains an important method for breast cancer detection, it often fails to identify the disease effectively, particularly among women in their 20’s, 30’s, and 40’s; and

WHEREAS, Historically, breast cancer research has been grossly underfunded at the federal level, topping a decade of erosion in federal appropriations in the 1980’s for all cancer research; and

WHEREAS, According to the National Cancer Institute, the incidence of breast cancer in the United States increased 32 percent between 1982 and 1989; and

WHEREAS, By the following decade, the 105th Congress appropriated almost \$530 million for federal breast cancer research. However, much more is needed to fund research directed at finding a cure and means of preventing breast cancer adequately; and

WHEREAS, Californians now have a unique opportunity to support breast cancer research in this state through the California Breast Cancer Research Fund Act, which allows individuals to make a voluntary contribution to support research when filing state income tax returns; and

WHEREAS, Heightened public awareness and education about breast cancer are crucial to the national effort to eradicate this epidemic; and

WHEREAS, Prominent organizations like the National Breast Cancer Coalition focus on three important goals to achieve such a worthy purpose; (1) increasing appropriations for high quality, peer-reviewed research, and working within the scientific community to focus research on prevention and finding a cure, (2) increasing access for all women to high quality treatment and care and to breast cancer clinical trials, and (3) increasing the influence of women living with breast cancer and other breast cancer activists in the decisionmaking that impacts all issues surrounding breast cancer; and

WHEREAS, It is in the best interest of all women, men, and families to join together to promote greater awareness about a disease that affects all Californians, the need for true early detection and adequate treatment options, and the urgency of finding a cure; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California, in order to heighten public awareness about breast cancer, including the need to redouble efforts to prevent and cure this disease, declares the month of October as Breast Cancer Awareness Month; and be it further

Resolved, The Legislature of the State of California, in order to recognize that, to date, breast exam and mammography are still the primary methods of breast cancer detection available to women, and that, therefore, all women should perform monthly breast self-exams, women over 40 years of age should have regularly scheduled mammograms every year, and women 20 to 39 years of age, inclusive, should have a clinical breast examination performed by their health care provider, declares October 19, 2001, as Breast Exam and Mammography Awareness Day; and be it further

Resolved, That the Legislature of the State of California emphasizes that the public education efforts conducted during the month of October should be part of an ongoing, year-round effort to raise public awareness across the state, and be it further

Resolved, That the Legislature of the State of California recognizes that while early detection through routine mammograms, clinical exams, and breast self-exams are important, the only effective means of protecting women against breast cancer is to make breast cancer research a priority and fund critically needed research into the cause, cure, and prevention of breast cancer; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 139

Assembly Concurrent Resolution No. 112—Relative to Economic Literacy Week.

[Filed with Secretary of State September 24, 2001.]

WHEREAS, Young people should understand our economic system to perform effectively as workers, consumers, savers, and citizens; and

WHEREAS, In turn, this state's economy depends on economically informed, educated citizens to maintain its competitive edge; and

WHEREAS, Unfortunately, adults and high school pupils do not have a grasp of rudimentary economic concepts, according to a recent Louis Harris poll surveying 1,000 adults and 1,000 high school pupils nationwide; and

WHEREAS, While those polled were nearly unanimous in their belief that basic economics should be taught in high school, both pupils and adults lack a fundamental understanding of scarcity, money, and inflation, with less than half of the participants demonstrating knowledge of these concepts; and

WHEREAS, Legislation in the 1984–85 Regular Session established a one-semester course in economics as a requirement for graduation from high school; and

WHEREAS, New standards, adopted by the State Board of Education in November 1988, include an economics strand integrated into the social science curriculum, kindergarten through grade 11, inclusive; and

WHEREAS, The California Council on Economic Education works with the California State University system, other colleges and universities and Centers for Economic Education to help teachers implement new standards; and

WHEREAS, With the leadership of the California Council on Economic Education, the State Board of Education adopted new history social science standards that promote economic reasoning and an understanding of the United States economy in a global setting; and

WHEREAS, Jim Charkins, Ph.D., currently Professor of Economics at California State University, San Bernardino, is the Executive Director of the California Council on Economic Education; and

WHEREAS, The economics strand helps students view history not as a series of random events, but as the result of decisions made by individuals; and

WHEREAS, These concepts help students evaluate major decisions that will affect them for the rest of their lives, including teen marriage and pregnancy, careers and school versus work; and

WHEREAS, California has made great progress in economic education and is one of only 13 states that include an economics course in the high school graduation requirements; and

WHEREAS, The adoption of the 1998 history social science standards, economics now plays a greater role in the kindergarten through grade 12, inclusive, classroom since the economics strand runs through the entire curriculum; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of October 22, 2001, through October 26, 2001, be recognized as Economic Literacy Week in this state.

RESOLUTION CHAPTER 140

Senate Concurrent Resolution No. 15—Relative to Public Employees' Retirement.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, Retired members of the Public Employees' Retirement System (PERS) have provided valuable services to the public during their working careers; and

WHEREAS, Retired PERS members have a right to a quality of life that acknowledges their contributions and sacrifices; and

WHEREAS, Most retired PERS members are dependent upon their PERS pension and related benefits, such as health, dental, and vision coverage, to meet basic necessities, such as food, clothing, shelter, and health care; and

WHEREAS, Retirees are living longer and leading more active lives, and therefore are dependent upon their retirement benefits to protect them for many years into the future; and

WHEREAS, There is no adequate mechanism in place to increase the pensions and benefits of retired PERS members to keep pace with inflation or to prevent retirees from falling into poverty; and

WHEREAS, There are, or in the future there may be, prudent reserves available in the Public Employees Retirement Fund (PERF); and

WHEREAS, There is no adequate program to enable retired PERS members to share in PERF investment earnings that exceed prudent reserves; and

WHEREAS, Since PERS' current retirees' pension contributions during their working careers helped fund the retirement system, a fair and equitable portion of the income generated through the extraordinary investment performance of the PERF funds in excess of any prudent reserves should be designated for the improvement of retirement pensions and benefits for active and retired PERS members; and

WHEREAS, Retired PERS members are not subject to collective bargaining or the meet and confer provisions of laws specific to active employees; and

WHEREAS, Any pension and benefit increases for retired PERS members are dependent upon the legislative process; and

WHEREAS, Funds to improve the pension and benefits of retired PERS members must, under current statute, be funded through state or local moneys; and

WHEREAS, Retired PERS members must, therefore, compete with all other related and nonrelated interests of the state and local governments in order to gain pension and benefit adequacy to be funded by these moneys; and

WHEREAS, Most state and local government employers' retirement contributions have decreased due to the extraordinary performance of PERS investments; and

WHEREAS, Retired PERS members have not received increased benefits which have the proportional monetary equivalent to those

received by active public employees when improvements have been made in the retirement formula over the past decade; and

WHEREAS, There is a need for improved annual pension and benefit supplementation; and

WHEREAS, The pensions and benefits of retired PERS members may not have kept pace with expenses in spite of fixed annual cost-of-living increases currently provided by law; and

WHEREAS, The actual cost-of-living expenses for retirees may not be adequately measured in current inflation indexes; and

WHEREAS, Many PERS retirement pensions are below the state and federal poverty levels; and

WHEREAS, The current minimum retirement allowance for members of the Public Employees' Retirement System was established by law in 1955 at \$100 per month and has not been changed since that date; and

WHEREAS, A large number of retired PERS members receive pensions that are as much as five times lower than the pensions of employees retiring today because public employee salaries have increased at a much higher rate than the pensions of current retirees due to the fact that active employees have received actual cost-of-living adjustments instead of fixed cost-of-living adjustments; and

WHEREAS, Pensions and benefits of retired PERS members must be improved when warranted; and

WHEREAS, The current system of fixed cost-of-living adjustments is insufficient and does not address ongoing adequacy levels of the pensions and benefits of retired PERS members; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That retired PERS members have a right to a quality of life that acknowledges their dedicated contributions to the people of the State of California; and be it further

Resolved, That retired PERS members have a right to an adequate level of pension benefits that protects them from inflation and changing economies; to adequate levels of health, dental, and vision coverage; to share in the extraordinary performance of investment earnings of the Public Employees' Retirement System and to have their pension, health, and other benefits increased when there are extraordinary earnings that exceed prudent reserves; and to have their health plan premium contributions reduced when an employers' retirement contributions are reduced due to extraordinary earnings that exceed prudent reserves in the PERF; and be it further

Resolved, That retired PERS members have a right to have representation in decisions that affect their pensions and benefits; to have the PERS Board of Administration include recommendations on the adequacy of pensions and other benefits for retired members in its

Annual Cost of Living Report to the Governor and Legislature; and to have their retirement benefits increased in a similar or cost equivalent manner whenever active public employees receive improved benefits through the collective bargaining process or the meet and confer process; and be it further

Resolved, That in compliance with any applicable federal statutes, retired PERS members have a right to voluntarily participate in financial or other programs developed and offered by PERS to its active members which will help retirees provide for their own continued, secure retirement; and be it further

Resolved, That the Legislature encourages the establishment of actuarial, financial, and other appropriate systems to annually determine a minimum standard of pension adequacy for all retired members of the Public Employees' Retirement System and to identify funding resources for the sole purpose of annually adjusting retired members' pensions to ensure that the pensions of all retired members are not less than the minimum standard; and be it further

Resolved, That the Legislature encourages the establishment of systems to identify extraordinary earnings in excess of any prudent reserves of the Public Employees' Retirement Fund for the purpose of enhancing pension benefits of retired members; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the members of the Board of Administration of the Public Employees' Retirement System, the President pro Tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the Assembly, the Majority Floor Leader of the Assembly, the Minority Floor Leader of the Assembly, the Chair and the Vice Chair of the Senate Committee on Public Employment and Retirement, and the Chair and the Vice Chair of the Assembly Committee on Public Employees Retirement and Social Security.

RESOLUTION CHAPTER 141

Senate Concurrent Resolution No. 37—Relative to biotechnology.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, Biotechnology is a rapidly growing industry that will fuel the state's economic future; and

WHEREAS, California is the nation's leader in biotechnology innovation and production; in 1998 more than 212,000 biotechnology-related workers were employed in this state; and

WHEREAS, The Los Angeles region has an abundance of world-class higher education institutions that are innovative leaders in the life science and technology fields, yet the region fails to retain significant numbers of new biotechnology enterprises, and highly trained biotechnology experts leave not only Los Angeles County, but in some cases, the state; and

WHEREAS, To operate effectively, biotechnology enterprises must be located in an environment that has close proximity to research labs, medical services, and production facilities, and that has access to a skilled and available workforce; and

WHEREAS, Biotechnology parks located in one geographical area have proved to be the most efficient and entrepreneurial in operation; and

WHEREAS, The close geographic proximity of educational institutions, bioscience industries, incubation services, and government agencies provides a strong anchor, facilitates multiuser participation, and acts as a dynamic catalyst in leveraging local investment; and

WHEREAS, Recent studies by the County of Los Angeles and the University of Southern California support the need for developing a university related biotechnology research park in close proximity to the University of Southern California Health Sciences campus; and

WHEREAS, On June 13, 2001, the Board of Supervisors of the County of Los Angeles issued a statement of support for creating a biomedical park around the Los Angeles County and University of Southern California Medical Center campus, noting that the project would bring jobs to the Los Angeles area; and

WHEREAS, A biotechnology research park affiliated with the University of Southern California will accommodate both incubation facilities for new startup companies, as well as established companies, with the capacity to create immediate employment for the region; and

WHEREAS, The proposed biotechnology research park is expected to generate \$25.8 million in income tax revenue to the state, \$15.2 million in annual tax revenue to the City and the County of Los Angeles, and more than \$10 million to other local jurisdictions; and

WHEREAS, Employment projections for work associated with the park total 8,000 to 9,000 jobs in the construction phase, and nearly 13,000 jobs at completion; and

WHEREAS, The creation of a University of Southern California biotechnology research park will require acquisition of land located adjacent to the University of Southern California Health Sciences campus, which currently houses a county juvenile detention center, court facilities, public works road department yard, and flood control center; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That it is the intent of the Legislature that, upon the

appropriation of funds for this purpose, the County of Los Angeles develop a plan for a biotechnology research park in conjunction with the University of Southern California, other local higher education institutions, bioscience industries, and other relevant entities that will be designed to do both of the following:

(1) Foster biotechnology industry clusters in the Los Angeles region that will support research, development, and commercialization of biotechnology innovation.

(2) Foster collaboration strategies among higher education institutions in the Los Angeles area, thereby providing a cohesive response to market-driven forces in the high growth biotechnology industry; and be it further

Resolved, That the plan by the County of Los Angeles include an assessment of the feasibility of relocating county-owned public facilities currently housed at the proposed site to facilitate development of a biotechnology research park affiliated with the University of Southern California.

RESOLUTION CHAPTER 142

Senate Concurrent Resolution No. 39—Relative to public employees' health care.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, The health program administered pursuant to the Public Employees' Medical and Hospital Care Act (PEMHCA) pays approximately \$1.8 billion in health care premiums annually to provide health care benefits to 1.1 million California public employees, making it the second largest health care buying pool in the country; and

WHEREAS, The PEMHCA program is financed by contributions of both active and retired public employees and California taxpayers; and

WHEREAS, The annual cost of the PEMHCA program has increased dramatically during recent years, with estimated premium hikes for next year ranging from 5.5 percent to 41 percent over the current year; and

WHEREAS, Projections indicate that the cost of the PEMHCA program will continue to escalate during future years, possibly to the extent that the quality of service provided by the program could be endangered; and

WHEREAS, A major contributing factor to the increase in health care costs is prescription drugs, as indicated by the fact that during the last five years total spending on prescription drugs increased by 85 percent

nationally, with consumers over 65 years of age purchasing an average of 15 new prescriptions per year; and

WHEREAS, It is in the best interest of the people of the State of California that every effort be made to contain and reduce PEMHCA program costs without compromising the level of service offered by the program; and

WHEREAS, The federal Health Care Financing Administration predicts that prescription drugs costs will continue to rise at a faster rate than any other category of health care services, and for those over 65 years of age the average yearly bill will rise from the current sum of \$1,989 to \$4,818 per person in 2011; and

WHEREAS, The Journal of the American Pharmaceutical Association reported that misuse of prescription drugs costs the economy more than \$177 billion annually in hospital admissions, long-term care admissions, and physician and emergency department visits, and further noted that drug misuse was responsible for approximately 218,000 patient deaths in 2000, so that the costs from drug-related problems exceed the actual cost of the medications; and

WHEREAS, Academic studies and research have indicated that pharmacy benefit programs can be improved through pharmacist activities, including drug utilization review, patient consultation, management of patients with chronic diseases to increase compliance with their drug therapy, and development and refinement of drug formulas and related programs that benefit patients and also reduce the spiraling cost of prescription drugs; and

WHEREAS, Although the cost of health care coverage is very important, it is also necessary to consider issues of program quality and effectiveness because of the impact on the health productivity and stability of the state's public employee workforce; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a special panel be formed to study the funding of pharmacy benefits, copayments, and other benefit structures of the PEMHCA program; and be it further

Resolved, That the Chair of the Senate Committee on Public Employment and Retirement shall convene the panel no later than September 15, 2001; and be it further

Resolved, That the panel shall recommend improvements, additions, or changes to pharmacy benefit programs offered by PEMHCA providers and health plans in order to best provide cost-effective benefits for the state's active and retired public employees; and be it further

Resolved, That panel membership shall consist of the Chair of the Senate Committee on Public Employment and Retirement or a committee member appointed by the Chair, the Chair of the Assembly Committee on Public Employees, Retirement and Social Security or a

committee member appointed by the Chair, and the Chair of the Health Benefits Committee of the State Public Employees' Retirement System Board or a committee member appointed by the Chair; and be it further

Resolved, That the Speaker of the Assembly shall appoint to the panel a member of the faculty of a school of pharmacy, a representative of the California Pharmacist Association, a representative from the California Association of Health Plans, a representative from the Pharmaceutical Research and Manufacturers of America, a member of the Assembly Republican Caucus, and a consumer representative; and be it further

Resolved, That the Senate Committee on Rules shall appoint to the panel three representatives from among the employee organizations which represent both active and retired beneficiaries of the PEMHCA program, a representative from the California Medical Association, a representative of the California Nurses Association, and a member of the Senate Republican Caucus; and be it further

Resolved, That the panel shall submit to the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security a preliminary report of its conclusions and recommendations by March 1, 2002, and a final report of its conclusions and recommendations no later than June 1, 2002.

RESOLUTION CHAPTER 143

Senate Concurrent Resolution No. 41—Relative to state employee merit awards.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, Section 19823 of the Government Code authorizes the Department of Personnel Administration to make awards to current or retired state employees who propose procedures or ideas that are subsequently adopted and placed in effect that will result in eliminating or reducing state expenditures or improving state operations; and

WHEREAS, Any award granted under Section 19823 of the Government Code that is larger than \$5,000 must be approved by concurrent resolution of the Legislature; and

WHEREAS, Processing, or intake, of newly committed inmates at correctional reception centers at the Department of Corrections involves a lengthy procedure of interviewing the inmate, dictating and transcribing a report, and completing the Institutional Staff Recommendation Summary (ISRS) report; and

WHEREAS, In the past 10 years, there has been a 122-percent increase in the volume of inmates processed through reception centers; and

WHEREAS, Joseph Beatty suggested and developed a computer program that automated the ISRS report, thereby reducing the time required to interview inmates, complete the ISRS, and place the inmate into a facility; and

WHEREAS, The department realized a first-year savings of \$484,260 based on the reduction of the intake processing time from three to five days per newly committed inmate to one day; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Mr. Beatty; and

WHEREAS, Unemployment Continued Claim Forms (DE 4581s) often are damaged and cannot be scanned by the optical character reader and must be sent by mail, causing a delay in processing the payment of unemployment insurance wages; and

WHEREAS, Four hours a day was required to prepare and mail up to 108 bags of unscannable materials at a cost of 78 cents to \$5.00 a bag; and

WHEREAS, Darlene Miller suggested that the Employment Development Department revise the DE 4581 process by streamlining the handling of the forms and transmitting by facsimile all unscannable material; and

WHEREAS, The streamlined process for handling Continued Claim Forms eliminated delays, reduced duplication, and reduced staff and mailing costs; and

WHEREAS, The department realized first-year savings of \$2,038,389 based on elimination of delays and reduction of costs for postage, salaries, and related benefits; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Ms. Miller; and

WHEREAS, Training classes for peace officers at the Department of the California Highway Patrol in specific law enforcement subjects are mandatory and must be tracked by the training officers to ensure officers are not deficient in meeting training requirements; and

WHEREAS, The previous manual training tracking system was cumbersome and time-consuming; and

WHEREAS, Christopher A. Berry and Gary Britton developed an interactive automated training record data system to track training of all department employees; and

WHEREAS, The newly automated tracking system eliminated the need to manually process up to 130 individual training folders several times a year and allows automated processing of training records, the

creation of numerous ad hoc reports, and online access to departmental forms; and

WHEREAS, The department realized a first-year savings of \$222,825 based on the reduction of staff time for processing, reviewing, and researching training records; and

WHEREAS, As a result of these savings it is unnecessary to appropriate funds for payment of the awards to Mr. Berry and Mr. Britton; and

WHEREAS, The Safe Streets Act of 1995 requires the Department of Motor Vehicles (DMV) to send notices of driver license suspension or revocation by certified mail; and

WHEREAS, Due to a legal challenge, the contract to supply certified mail processing and forms to DMV was not renewed, which eliminated the department's ability to contract for certified mail forms and processing and required the department to seek an alternate method; and

WHEREAS, Bobette M. Hudson suggested that DMV process certified mail in-house and use the certified mail forms available free of charge from the United States Postal Service; and

WHEREAS, The department realized a first-year savings of \$170,112 based on the reduction of processing time, mail operation costs, and staff time; and

WHEREAS, The Prison Industry Authority (PIA) is responsible for the manufacture and sale of office furniture and other accessories; and

WHEREAS, In the past, PIA utilized the bid process to purchase fabrics; and

WHEREAS, Only a limited number of vendors participated in the costly bid process, which resulted in a limited choice of fabrics; and

WHEREAS, Gary Dias suggested establishing an approved brands list to purchase chair fabrics rather than utilizing the bid process; and

WHEREAS, PIA's use of the approved brands list to purchase chair fabrics allowed more bidders to qualify, creating greater competition and lower bid prices; and

WHEREAS, The authority realized a first-year savings of \$124,741 based on the savings for chair fabric purchases; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Mr. Dias; and

WHEREAS, PIA required potential bidders to first test their products for conformance with the department's specifications, which reduced the number of participating vendors; and

WHEREAS, Gary Dias suggested revising the method of the fabric bid process for office panels and upholstered wall modular office systems by using industry standards developed by the Association for Contract Textiles; and

WHEREAS, Use of the new fabric bid process has significantly increased the number of bidders and created greater competition and lower bid prices; and

WHEREAS, The department realized a first-year savings of \$597,093; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Mr. Dias; and

WHEREAS, Due to a shortage of energy throughout California, energy conservation is necessary and welcome; and

WHEREAS, Gerald L. Tripp suggested replacing incandescent lighting with light emitting diodes (LEDs) in the red light of traffic signal heads; and

WHEREAS, Because the LEDs consume less power, last longer, and are as bright as incandescent illuminations, the suggestion was implemented by the Department of Transportation statewide, and produces significant energy savings for the State of California; and

WHEREAS, The department realized a first-year savings of \$4,052,780 based on energy savings after installation of the LEDs; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Mr. Tripp; and

WHEREAS, Registered nurses are increasingly working in independent settings in which it is desirable to display a wall certificate; and

WHEREAS, Between 1972 and 1989 approximately 136,000 registered nurses were not issued wall certificates for display; and

WHEREAS, Ruth Caouette and Dan R. Cope suggested wall certificates be made available for purchase by registered nurses via mail order for a cost of \$30 each; and

WHEREAS, The department realized revenue of \$117,761; and

WHEREAS, As a result of these savings, it is unnecessary to appropriate funds for payment of the award to Ms. Caouette and Mr. Cope; and

WHEREAS, Implementation of these suggestions has resulted in actual savings and revenue of \$7,807,961; and

WHEREAS, As a result of these savings and increased revenue, it is unnecessary to appropriate additional funds for payment of awards to these employees; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that merit award payments, authorized by the Department of Personnel Administration, are hereby made to Joseph M. Beatty in the amount of \$43,426, Darlene R. Miller in the amount of \$45,000, Christopher A. Berry and Gary Britton in the amount of \$6,142, to be divided equally, Bobette M. Hudson in the amount of \$12,011, Gary Dias in the amount of \$7,474,

Gary Dias in the amount of \$40,860, Gerald L. Tripp in the amount of \$45,000, and Ruth Caouette and Dan R. Cope in the amount to \$6,776, to be divided equally, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Controller and the Department of Personnel Administration.

RESOLUTION CHAPTER 144

Senate Concurrent Resolution No. 42—Relative to Christianity in Armenia.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, In the first century A.D., two of the apostles of Jesus Christ, Thaddeus and Bartholomew, brought the light of Christianity to the Armenian nation; and

WHEREAS, In the year 301 A.D., Armenia became the first nation to officially adopt, embrace, and proclaim Christianity as its state religion with the conversion and baptism of King Trdat by St. Gregory the Illuminator, the First Catholicos of All Armenians; and

WHEREAS, In 451 A.D., under the leadership of St. Vartan Mamigonian, the Armenian nation fought against a powerful neighboring empire. While the vastly outnumbered Armenians lost on the battlefield, they were the ultimate victors in the struggle for freedom of their religion and of their national identity. The Battle of Avarayr, the first recorded war in defense of Christianity, became a spiritual victory for the Armenian nation as the neighboring kings henceforth recognized the Armenian claims for freedom of worship. On the eve of the battle, the Armenian soldiers led by St. Vartan received Holy Communion together. St. Vartan and the 1,036 soldiers martyred at Avarayr are held in special respect as saints of the Church by the Armenian people, who continue to hold fast to their Christian faith and to their national identity in spite of centuries of foreign domination and subjugation; and

WHEREAS, The spread of the gospel among Armenians was greatly facilitated by the invention of the Armenian alphabet in 406 by Mesrob Mashdots, an Armenian monk whose work, supported by King Vramshapuh and Catholicos Sahag, allowed for the subsequent translation of the Holy Bible into Armenian over the next 30 years; and

WHEREAS, The adoption of Christianity is the single most formative factor in Armenian history, culture, and heritage; and

WHEREAS, The religious, national, and cultural identities of Armenians are so interconnected that the Armenian historian Yeghishe

observed in the fifth century: “It took only 150 years, following the conversion of Armenia to the light of Christianity, that the new religion became an inseparable part of the Armenian identity”; and

WHEREAS, The devotion of the Armenian nation and people to God led them to create distinctive styles of Christian art, music, manuscript illumination, architecture, stone sculptures, and textiles, that are recognized in and have contributed to the international community; and

WHEREAS, The Armenian people have been persecuted historically by neighboring forces of religious intolerance, culminating in the Armenian Genocide (1915-23), in which the Armenian people endured unimaginable suffering, torture, and death at the hands of the Ottoman Empire; and

WHEREAS, Most recently following the independence of the Republic of Armenia after 70 years of Soviet oppression, including attempts to chill the practice of Christianity, the Armenian Church and the entire nation are experiencing a rejuvenation and spiritual rebirth in celebrating the 10th anniversary of the founding of a free and independent Republic of Armenia; and

WHEREAS, In this jubilee year of 2001, Armenians throughout the world are celebrating the 1700th Anniversary of this momentous and holy event; and

WHEREAS, More than 100 communities throughout the United States are celebrating the 1700th Anniversary of the acceptance of Christianity in Armenia with cultural events, community activities, and special worship and ecumenical services; and

WHEREAS, The 1700th Anniversary is an appropriate occasion to celebrate the ideals and values shared by those of Armenian descent in California and in the United States, as well as the people of Armenia; and

WHEREAS, For the last 100 years, the Armenian Church has established parishes throughout California and has contributed to the quality of life in this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California acknowledges the significant contribution the Armenian Church has made to the fabric of life of all peoples in California, and congratulates the Republic of Armenia on the occasion of the 1700th Anniversary of the acceptance of Christianity in Armenia; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 145

Senate Concurrent Resolution No. 44—Relative to the Ten Year Anniversary of the California Urban Water Conservation Council.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, The California Urban Water Conservation Council was created in 1991, to increase efficient water use statewide, through partnerships among urban water suppliers, public advocacy organizations, and other interested groups; and

WHEREAS, The council integrates urban water conservation practices, referred to as Best Management Practices (BMPs), in the planning and management of California's water resources and pioneered the historic Memorandum of Understanding Regarding Urban Water Conservation in California, which was signed by nearly 100 urban water agencies and environmental groups in December 1991, who pledged to develop and implement 14 comprehensive BMPs; and

WHEREAS, The council delivers quality technical assistance to approximately 260 current members, in a variety of forms including building successful partnerships, BMP reporting and handbooks, skillful presentations, an informative Web site, training workshops, and serves as the inspiration for many state, federal and international water conservation programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature congratulates the council for its strong leadership and unwavering dedication during the past 10 years, to promote and achieve greater efficiency of urban water use in California; and be it further

Resolved, That the Legislature commends the council for making California a better place to live for present and future generations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 146

Senate Joint Resolution No. 20—Relative to global warming.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, Average temperatures on earth have climbed more than one degree Fahrenheit over the past century, while average temperatures

have increased only 5 to 9 degrees since the last ice age 10,000 years ago; and

WHEREAS, There is overwhelming scientific evidence that pollution released into the atmosphere as a result of human activities significantly contributes to this phenomenon of global warming; and

WHEREAS, If we continue current rates of pollution and releases of greenhouse gases, scientists predict that the average temperature of the earth will increase as much as 11 degrees this century; and

WHEREAS, Scientific evidence links global warming to increased flooding, storms, droughts, and heat waves, which all have devastating effects on the environment, agriculture, wildlife, and public health; and

WHEREAS, Experts estimate that the current climate crisis requires a 70-percent reduction of greenhouse gases to avoid catastrophic effects on human existence; and

WHEREAS, Although the United States comprises only 4 percent of the world's population, it produces 25 percent of all greenhouse gases; and

WHEREAS, The Kyoto Protocol to the United Nations Framework Convention on Climate Change sought to address climate change by setting binding targets for reductions in greenhouse gas emissions by developed countries; and

WHEREAS, An effective emissions control program would not necessarily cause a significant negative impact on our nation's economy due to recommended technology and devices that would also reduce the nation's dependency on fossil fuels; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature hereby declares its support for the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and strongly urges the President of the United States to take proactive steps to curb greenhouse emissions and work with other nations to address the increasing dangers of global warming; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 147

Senate Joint Resolution No. 21—Relative to the political status of Puerto Rico.

WHEREAS, On December 10, 1898, the Treaty of Paris was signed by the United States and later ratified by the United States on February 6, 1899, formally concluding the Spanish-American War and establishing Puerto Rico as a territory of the United States; and

WHEREAS, On March 2, 1917, President Woodrow Wilson signed the Puerto Rican Federal Relations Act, popularly known as the Jones Act, which extended United States citizenship to the residents of Puerto Rico, but did not provide them with voting representation in the United States Congress or give them the right to vote for the President of the United States; and

WHEREAS, Since 1917, 200,000 United States citizens in Puerto Rico have served valiantly in every war and armed conflict in which our nation has fought in defense of democratic principles and self-determination; and

WHEREAS, Four heroic Puerto Ricans, Hector Santiago-Colon, Euripides Rubio, Carlos James Lozada, and Luis Fernando Garcia, have been awarded the Congressional Medal of Honor for their valor in defending American democracy and freedoms; and

WHEREAS, We recognize the many social, economic, and political contributions that the 3.8 million United States citizens residing in Puerto Rico make to preserve and enhance this nation's democratic values; and

WHEREAS, The State of California has a significant Puerto Rican community and an ever-increasing Latino population from which many of our state's business, cultural, and political leaders are drawn; and

WHEREAS, California's great history, including the ascension to statehood, is intertwined with our state's Latino heritage; and

WHEREAS, In 1997 the Legislature of Puerto Rico formally petitioned the United States Congress to respond to the democratic aspirations of the United States citizens of Puerto Rico by means of a federally sanctioned plebiscite to be held no later than 1998 and Congress has not yet responded to this petition; and

WHEREAS, As we begin a new millennium, we recognize that the time has come for Puerto Rico to exercise its right to self-determination regarding its desire to attain full self-government within the context of a congressionally authorized plebiscite; and

WHEREAS, The California Latino Legislative Caucus urges all Californians and the citizens of the United States to support the enactment of a federal law leading to full self-government for Puerto Rico; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California and the California Latino Legislative Caucus request that the Congress and the President of the United States enact legislation that would define the political

status options available to the United States citizens of Puerto Rico and authorize a plebiscite to provide an opportunity for Puerto Ricans to make an informed decision regarding the island's future political status; and be it further

Resolved, That the Legislature of the State of California and the California Latino Legislative Caucus request the California congressional delegation to actively promote and support timely action on this important national issue; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, each Senator and Representative from California in the Congress of the United States, and the Governor of Puerto Rico.

RESOLUTION CHAPTER 148

Senate Joint Resolution No. 26—Relative to terrorist attacks.

[Filed with Secretary of State September 26, 2001.]

WHEREAS, Through the hijacking of civilian airliners, a terrorist organization on September 11, 2001, launched the most heinous attack directly upon the citizens of the United States of America, targeting thousands of innocent men, women, and children; and

WHEREAS, This terrorist organization attacked and partially destroyed our nation's national defense headquarters when the United States was not in a state of war; and

WHEREAS, The terrorists also attacked and destroyed a crucial portion of our nation's financial and business center; and

WHEREAS, Due to the crash of one of the hijacked airliners, the terrorists narrowly failed to strike another devastating blow upon another key American target; and

WHEREAS, The nature of these attacks clearly constitutes an act of war under international law; and

WHEREAS, The United States of America has stood for more than 200 years as a beacon of political, religious, and economic freedom and opportunity, and for the past century as the world's leading defender of liberty and human rights; and

WHEREAS, The United States is a diverse nation of many races, ethnicities, religions, and national origins, bound together by common respect for law, order, justice, and a belief that all people should be free and safe within their homes and places of business; and

WHEREAS, This nation must never allow itself to be intimidated by terrorism or threat of war into retreating from its ongoing advance and global leadership for all the above values; and

WHEREAS, The residents of California, comprising approximately 12 percent of the nation's population, share the grief and outrage of their American brothers and sisters in New York City and the Washington, D.C. area and elsewhere who have been killed, maimed, widowed, or orphaned in these horrendous, cowardly terrorist attacks; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California expresses to the people of the City and State of New York, the District of Columbia, and other affected communities the overwhelming, heartfelt sympathy of the people of California and affirm our offer of assistance during this tragedy; and be it further

Resolved, That the Legislature expresses to the President of the United States of America that the Legislature stands in bipartisan unity behind his leadership as he goes about the business of healing this damage, ensuring our national security, restoring our financial and transportation infrastructure, bringing the perpetrators to justice, holding accountable any organizations or nations that may have been complicit in this act of war, and exercising, with the advice of the Congress, the full array of responses; and be it further

Resolved, That the Legislature memorializes the United States Congress to fully support the President in all his efforts, and memorializes the Legislatures of our sister states, commonwealths, and territories to join in supporting the victims and their families, the President, and Congress as our nation moves, deeply wounded but unbowed and unintimidated, together through this national tragedy; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Congress of the United States and to the author for appropriate distribution.

RESOLUTION CHAPTER 149

Assembly Concurrent Resolution No. 5—Relative to sudden oak death.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, Coast live oak, tanoak, and black oak trees are a treasured part of California's landscape and history, and play an integral role in California's ecology; and

WHEREAS, Tanoaks were first reported dying of a disease known as sudden oak death in large numbers in Marin County in 1995, and this disease also has now affected unusually large numbers of coast live oaks and black oaks in Marin County, causing widespread death; and

WHEREAS, The estimated number of coast live oak, tanoak, and black oak trees, including seedlings and saplings, affected by sudden oak death are in the hundreds of thousands, and sudden oak death appears to be spreading, with confirmed reports of coast live oak, tanoak, and black oak trees dying or dead in other coastal counties of California, including Sonoma, Napa, Santa Cruz, Mendocino, San Mateo, and Monterey Counties; and

WHEREAS, These oak trees are generally capable of withstanding wildfires, but when they are impacted by sudden oak death, there is an increased risk of crown fires and accelerated accumulation of fuels on the ground; and

WHEREAS, Many individual homes and communities are built within, around, and adjacent to these trees, and are now increasingly at risk for wildfires; and

WHEREAS, Many species of wildlife, such as deer, birds, rodents, and fish, and endangered species such as spotted owl and salmon, depend upon coast live oaks, black oaks, and tanoaks for food and shelter, and may be at risk if this disease continues to spread; and

WHEREAS, Pathologists at the University of California have isolated a previously unknown species of *Phytophthora* from infected species found in most areas where sudden oak death has been reported, and this fungus is considered to be the prime candidate for the underlying cause of sudden oak death; and

WHEREAS, Sudden oak death has been found in buckeye, madrone, bay, huckleberry, and rhododendron; and

WHEREAS, There is currently no known cure for sudden oak death, and more research is critically needed to determine all of the interacting factors associated with sudden oak death, the geographic extent and distribution of this epidemic within California, and the movement of the disease over the landscape; and

WHEREAS, Management options must be developed to mitigate the impacts of sudden oak death, including the increased risk of wildfires, the ecological impacts of changing species compositions of forests, and the resulting impacts on birds, fish, and wildlife; and

WHEREAS, Treatment or control of this epidemic must be found before it spreads to other parts of California and other states; and

WHEREAS, The California Oak Mortality Task Force was established to bring together concerned state and federal public agencies, nonprofit organizations, and private interests to implement a comprehensive and unified approach for research, management, education, and public policy focused on sudden oak death; and

WHEREAS, The goals of the California Oak Mortality Task Force are to minimize the impacts of sudden oak death on oak forests and individual trees and to coordinate an integrated response by all interested parties to sudden oak death; and

WHEREAS, Funding is critically needed for the California Oak Mortality Task Force to achieve all of the following objectives:

(1) Assisting communities affected and threatened by sudden oak death to maintain a safe and healthy environment.

(2) Developing and maintaining an adaptive integrated pest management program for sudden oak death.

(3) Providing information and education to interested parties regarding causes, treatments, and consequences of sudden oak death.

(4) Coordinating efforts to prevent the spread of pathogens and insects associated with sudden oak death.

(5) Identifying additional funding avenues, staffing, and resource needs to address sudden oak death; and

WHEREAS, United States Senator Barbara Boxer has introduced S997 in the United States Senate and Congresswoman Lynn Woolsey has introduced H214 in the United States House of Representatives; and

WHEREAS, Each federal bill would provide more than \$70,000,000 in funding over the next five years to local, state, and federal agencies, and direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and public outreach on sudden oak death, and authorize the establishment of a sudden oak death committee and funding for projects and research; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That concerned state agencies act with all deliberate speed to coordinate with federal agencies to seek all necessary and immediate state and federal funds for research, public education, increased emergency wildfire response capability in affected counties, and the creation of a revolving loan program, grants, or other means to aid homeowners and local governments with the significant costs of tree removal, final disposition of trees, and replanting of affected areas; and be it further

Resolved, That copies of this resolution be transmitted to the Secretary of the Resources Agency, the Director of Fish and Game, the Director

of Forestry and Fire Protection, and the Director of Parks and Recreation.

RESOLUTION CHAPTER 150

Assembly Concurrent Resolution No. 98—Relative to the 1915 Ridge Route Highway Historical Monument.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, Begun in 1914 and completed in late 1915, the Ridge Route Highway, officially named the “Castaic-Tejon Route,” connected Castaic Junction in Los Angeles County to Bakersfield; and

WHEREAS, The 1915 Ridge Route Highway was one of the first products of the newly formed State Bureau of Highways, paid for through the passage of a 1910 bond act; and

WHEREAS, The 1915 Ridge Route Highway was considered an engineering marvel of its day and was the first mountain highway built in California; and

WHEREAS, Many credit the 1915 Ridge Route Highway, which opened up travel and commerce between the Los Angeles basin and the San Joaquin Valley, with having prevented California from separating into two separate states; and

WHEREAS, Workers carved out the original 20-foot wide roadway by using horse and mule drawn scrapers and graders, going from ridge top to ridge top across the western San Gabriel mountains; and

WHEREAS, Originally completed as an oiled, graded gravel road, the 1915 Ridge Route Highway was paved in 1919; and

WHEREAS, The 1915 Ridge Route Highway was well known for its 697 curves, the most notorious of which was Deadman’s Curve near Tejon, that if added together, would make 110 complete circles; and

WHEREAS, The 1915 Ridge Route Highway was replaced in 1933, by a straighter, three-lane highway, which was later widened and became State Highway 99; and

WHEREAS, On September 25, 1997, 17.6 miles of the 1915 Ridge Route Highway south of Gorman, was accepted into the National Registry of Historic Places; and

WHEREAS, The Ancient and Honorable Order of E Clampus Vitus has proposed to construct and dedicate, at no cost to the public, a monument and plaque in honor of the historical significance of the 1915 Ridge Route Highway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Department of Transportation is requested to grant,

without charge, the necessary encroachment permit authorizing an appropriate historical monument and plaque dedicated to commemorate the 1915 Ridge Route Highway, to be placed within the rights-of-way of State Highway Route 126 and Interstate Highway 5, where those highways converge; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation, the Director of Parks and Recreation, the Ridge Route Preservation Organization, and to the Platrix Chapter No. 2, Queen of the Cow Counties of the Ancient and Honorable Order of E Clampus Vitus.

RESOLUTION CHAPTER 151

Assembly Concurrent Resolution No. 105—Relative to the 90th Anniversary of Women’s Suffrage.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, The women of California won the right to vote after a decade-long effort culminating on October 10, 1911, when a majority of California men voted for political equality and passed the women’s suffrage amendment to the California Constitution; and

WHEREAS, The struggle for political liberty was waged without violence or animosity, speaking to California men from all walks of life and finding support in all corners of the state; and

WHEREAS, California was only the sixth state in the nation to approve political equality, approving women’s suffrage in California nine years before the 19th Amendment to the United States Constitution was ratified; and

WHEREAS, With little central organization, supporters throughout the state worked in cooperation with each other, dividing up the state and the responsibilities of the intensive eight-month campaign to best utilize the abilities of all, winning the support of editors, teachers, ministers, the Governor, the Legislature, and finally a majority of the state’s male voters; and

WHEREAS, The innovative California campaign broke new creative ground in promoting “Votes for Women” by incorporating the latest in advertising and publicity techniques including electric signs, automobile tours, giant billboards, open-air speeches, leaflets in five languages, colorful citywide displays, and countless other new means of outreach; and

WHEREAS, The enfranchisement of California women was ensured by farmers, businessmen, and working men in small towns, distant

counties, and rural areas who responded to the call to “Give Your Girl an Equal Chance With Your Boy” and who overcame the opposition in the largest cities; and

WHEREAS, The women’s suffrage amendment, initially thought to be defeated, triumphed after delayed returns from rural areas swung the election in women’s favor, passing by less than 1 percent of the vote, 125,037 to 121,450, an average margin of one in every voting precinct in the state; and

WHEREAS, The victory in California doubled the number of women in the United States who could vote, offered new hope to supporters throughout the nation, and for a time made San Francisco the largest city in the country where women could vote; and

WHEREAS, The intensive statewide campaign in small towns and rural areas calling for “Justice for California Women” proved to be an inspiration to supporters around the world and helped encourage women’s suffrage in other states; and

WHEREAS, Women voters immediately used their new powers responsibly and to the credit of the state, and formed civic leagues and associations for the betterment of California; and

WHEREAS, This successful, historic effort by courageous and resolute citizens of all races and origins dedicated to the ideal of true democracy has nearly been forgotten and has for too long been denied its rightful place in the history of our state and nation; now, therefor, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes October 10, 2001, as the 90th Anniversary of Women’s Suffrage in California and encourages all Californians to join in this observance; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 152

Assembly Concurrent Resolution No. 113—Relative to the California Department of Forestry and Fire Protection firefighters.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, The California Department of Forestry and Fire Protection (CDF) firefighters perform an essential public service, and CDF is the third largest fire fighting agency in the country and operates 634 fire stations in the state; and

WHEREAS, It is important to recognize the significant duties, responsibilities, hazards, and sacrifices of the approximately 4,500 CDF firefighters, 1,200 of whom work for local governments pursuant to contractual agreements between CDF and local governments for fire fighting services; and

WHEREAS, The men and women of CDF continue to devote themselves to their jobs regardless of the potential hazards and dangers to themselves; and

WHEREAS, They selflessly respond to such emergencies as the Oakland Hills Fire, the Dunsmuir Flood, and assisting in the rescue efforts in Oklahoma City after the 1995 bombing; and

WHEREAS, CDF firefighters answer over 300,000 calls a year and only 2.5 percent, approximately, of those calls relate to wildland fires; and

WHEREAS, The firefighters of CDF perform the same work as other municipal fire departments, such as responding to structural fires, automobile accidents, attending to victims of heart attacks, drownings, and rescuing flood and earthquake victims; and

WHEREAS, According to the California Department of Personnel Administration, CDF firefighters, as of July 2001, are earning approximately 40 percent less than other firefighters employed by local governments; and

WHEREAS, CDF firefighters work an average of 72 hours per week while local government firefighters work an average of 56 hours per week; and

WHEREAS, Because of these facts CDF firefighters work approximately one-third more hours for one-third less pay than do firefighters employed by other jurisdictions; and

WHEREAS, The California Firefighters' Memorial in Capitol Park will bear the names of approximately 400 firefighters who died in the line of duty and approximately 70 of those will be the names of CDF firefighters who have lost their lives protecting our citizens, their homes, parks, and communities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California does hereby recognize and commend the bravery and selflessness of the firefighters of the California Department of Forestry and Fire Protection, and expresses its appreciation for their continued service and dedication to the citizens of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Forestry and Fire Protection, and to each

Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 153

Assembly Concurrent Resolution No. 115—Relative to Certified Public Accountants Week.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, The California Board of Accountancy in 1901 licensed the first certified public accountants and began what is now a 100-year tradition of excellence and integrity serving the citizens of California and now the global community in this Internet age; and

WHEREAS, Certified public accountants provide a full range of financial, estate planning, personal financial planning, and management advisory services to business, government, and individuals; and

WHEREAS, The original 47 licensed certified public accountants in California have grown to 55,000 certified public accountants, and California's citizens have recognized the value certified public accountants, with their education, integrity, dedication, and professionalism, bring to individuals and business; and

WHEREAS, The work of certified public accountants helps millions of Californians achieve the American dream by assuring shareholders reliable financial information and by helping individuals to obtain fair treatment on tax obligations; and

WHEREAS, The work of California certified public accountants has assisted in making California the fifth largest economy in the world; and

WHEREAS, All businesses and government agencies rely on the expertise of certified public accountants to design financial and accounting systems that support honesty and efficiency in millions of daily transactions; and

WHEREAS, The role of the profession continues to change dramatically as technology changes and the needs of the public for instantaneous information and analysis of complex transactions increases; and

WHEREAS, Certified public accountants individually and as members of an influential and enduring profession are evolving into the preeminent trusted advisors to individuals, business, government, and others providing clarity in complex financial matters, anticipating opportunities, and providing solutions to financial problems for Californians; and

WHEREAS, Certified public accountants are committed to ensuring that the profession represents the diversity of California's population and is undertaking an unprecedented recruitment program to encourage young people to join what has become an exciting, challenging profession by designing high school and college outreach programs in every community in California championed by volunteers who share a love for the certified public accountant profession; and

WHEREAS, California certified public accountants, during the week of November 4 through 10 are planning a week of activities to increase community awareness of the role of certified public accountants in California's economy and to celebrate the 100th anniversary of the certified public accountant profession in California, now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims November 4 through 10, 2001, as Certified Public Accountants Week in the State of California.

RESOLUTION CHAPTER 154

Assembly Concurrent Resolution No. 116—Relative to honoring the family.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, The family plays a key role in establishing a foundation of values and morality in individuals, and, consequently, in developing responsible citizens; and

WHEREAS, It is within the family that individuals, as family members, learn right from wrong, and learn how to be kind to others and how to love one another; and

WHEREAS, The family is our most important social institution; and

WHEREAS, Today's society is at risk of abandoning the heritage that was passed on to us by our parents, resulting in the breakdown of the family and in cultural decline; and

WHEREAS, It is becoming increasingly difficult for families to impart standards of ethical behavior to their children and to pass on a cultural heritage for the benefit of humanity; and

WHEREAS, The President of the United States of America and the United States Congress have traditionally declared a week in November as National Family Week; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That mothers, fathers, husbands, wives, and children be

encouraged to join together as a family to protect and nurture each other to ensure the tremendous blessings that are a result of having a family; and be it further

Resolved, That the Legislature commends the mothers, fathers, sons, and daughters that have shown the discipline necessary to preserve a code of moral and ethical behavior by maintaining strong families; and be it further

Resolved, That the Legislature directs the attention of the public to the positive contributions to the people of California by the family; and be it further

Resolved, That the Legislature recognizes the month of November 2001 as California Family Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 155

Assembly Concurrent Resolution No. 117—Relative to the Tall Ships Challenge 2002.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, During California's Sesquicentennial Celebration in 1999, tall ships from around the world visited the California ports of San Francisco, Los Angeles, and San Diego; and

WHEREAS, These ships were the Concordia from Canada, the Kaiwo Maru II from Japan, the Dewaruci from Indonesia, the Gloria from Colombia, and the Guayas from Ecuador; and

WHEREAS, These tall ships were joined by the USS Eagle, the United States Coast Guard's training sail ship; and

WHEREAS, These tall ships were also joined by over 40 tall ships and square-rigged ships from the United States; and

WHEREAS, These tall ship visits were aided by funding from the state to assist these ports in hosting these vessels; and

WHEREAS, These visits were a financial boost to these ports by drawing recordbreaking crowds to visit the ships; and

WHEREAS, These visits received widespread national and international media coverage and boosted California's status as a worldwide, international economic power; and

WHEREAS, The visit of these tall ships increased California's appreciation for its rich maritime history and traditions dating back to the earliest days of California's recorded history; and

WHEREAS, The American Sail Training Association has created the Tall Ships Challenge in order to bring tall ships and young sailors from North America and around the globe to the shores and harbors of the United States each year in friendly international competition and in celebration of the enduring values of teamwork, adventure, and courage that built a great society in North America; and

WHEREAS, The San Diego Maritime Museum, the Los Angeles Maritime Museum, and Sail San Francisco have joined together with the American Sail Training Association to bring the Tall Ships Challenge to California in 2002; and

WHEREAS, The trans-Pacific race will originate in Yokohama and sail to Puget Sound, Washington, a distance of more than 4,200 nautical miles, with an intermediate stop at a port in the Aleutian Islands. Ships in this race will then join others in Seattle for the start of Tall Ships Challenge 2002. After a visit in the Pacific Northwest, the ships will race south to San Francisco, followed by a second race to Los Angeles, and then a cruise-in-company, for the Los Angeles to San Diego leg; and

WHEREAS, Events like the Tall Ships Challenge 2002 bring local people together with visiting sailors from across the ocean in a shared sense of excitement that is truly unique, joining appreciation for maritime history and traditions in celebrations that are an extraordinary cross-cultural experience; and

WHEREAS, The great port cities, San Francisco, Los Angeles, and San Diego, California will serve as hosts to the largest gathering of tall ships seen on the Pacific Coast since the 19th century; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commends the American Sail Training Association for its advancement of international understanding, its continuing commitment to the values that built a great nation and brought the peoples and cultures of the world together, and its dedication to the personal growth and development of the young people who will lead the nation and the world in the next generation; and be it further

Resolved, That the Legislature of the State of California congratulates the host ports, San Diego Maritime Museum, the Los Angeles Maritime Museum, and Sail San Francisco on their efforts to provide a warm California welcome to the ships of the Tall Ships Challenge 2002, and for their commitment to the important work carried on by those ships; and be it further

Resolved, That the Legislature of the State of California hereby invites the nations of the world to send their tall ships to participate in the Tall Ships Challenge 2002; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 156

Assembly Concurrent Resolution No. 118—Relative to terrorism in New York City and the Pentagon.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, On Tuesday, September 11, 2001, unknown terrorists hijacked an American Airlines flight and a United Airlines flight and flew the planes into the World Trade Center buildings in Lower Manhattan, and also hijacked another American Airlines flight and crashed it into the Pentagon building; and

WHEREAS, A separate United Airlines flight also was hijacked on that day and crashed in Pennsylvania near Camp David; and

WHEREAS, These acts of terrorism have caused the destruction of the two giant World Trade Center towers, nearby buildings, a portion of the Pentagon building, four airline jets, and the loss of an untold number of innocent American lives and injuries to many others; and

WHEREAS, The scale of destruction and loss of life is unimaginable and horrific, and all Californians join with the American public in pouring out their hearts in grief and sympathy for our beloved fellow citizens who have perished or suffered injuries in this profoundly shocking tragedy; and

WHEREAS, The Legislature salutes and remembers the hundreds of heroic men and women of the police and fire departments, and the paramedics and medical personnel at the disaster sites who put their personal safety at risk and lost their lives or were seriously injured in their courageous efforts to protect and serve their fellow citizens; and

WHEREAS, It is fitting at this point in history for all Americans to remind ourselves that the United States is a nation of healing, hope, and resilience; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature joins freedom-loving people around the world in condemning the vicious attack aimed at the United States and in observing a time of prayer and remembrance for the victims of this tragedy and for their families; and be it further

Resolved, That the Legislature stands firm with all Americans to preserve our liberties and our freedom, and wholly supports our national efforts to obtain justice against the cowardly terrorists who destroyed so many innocent lives; and be it further

Resolved, That our nation, firm in purpose and direct in its response, will thereby safeguard our national heritage and honor the memory of the Americans who died as a result of this unprecedented act of terror.

RESOLUTION CHAPTER 157

Assembly Joint Resolution No. 29—Relative to flight training schools.

[Filed with Secretary of State October 2, 2001.]

WHEREAS, The United States was attacked on September 11, 2001, by terrorists who hijacked four commercial airliners and flew three of them into the World Trade Center and the Pentagon to maximize the number of innocent victim deaths; and

WHEREAS, These terrorists took the lives of thousands of innocent individuals; and

WHEREAS, Investigations have revealed that some, if not all, of the hijackers trained at flight training schools in the United States in preparation for their terrorist attacks; and

WHEREAS, There are a number of flight training schools in California that provide training similar to that received by the above-mentioned terrorists; and

WHEREAS, The ability to pilot an aircraft gives the pilot an awesome power over the lives of not only passengers but persons on the ground; and

WHEREAS, Currently, these flight schools are not required to do any background checks, fingerprinting, or other confirmation of identification, allowing literally anyone with sufficient money to enroll in flight training; and

WHEREAS, The events of September 11, 2001, reveal the need for increased security in flight training schools to minimize the possibility of a repeat of the horrendous attacks against buildings and innocent civilians; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the Congress of the United States to instruct the Federal Aviation Administration to implement security measures including, but not limited to, identification, fingerprinting, and domestic and international background checks for students and trainees at private or government operated flight training schools; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the

Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

2001 – 02

FIRST EXTRAORDINARY SESSION

EXTRAORDINARY SESSION SPECIAL RULES OF EFFECTIVENESS

Except for a statute calling an election, a statute providing for a tax levy or an appropriation calling for the usual current expenses of the state, and an urgency statute, all of which take effect immediately following enactment, a statute adopted during an extraordinary session takes effect on the 91st day following the adjournment of the special session (see subdivision (c) of Section 8 of Article IV of the California Constitution). The effective date of a joint or a concurrent resolution is the date it is filed with the Secretary of State.

The 2001–02 First Extraordinary Session convened on January 3, 2001, and adjourned *sine die* on May 14, 2001. The 91st day after adjournment is August 13, 2001.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA



A PROCLAMATION
By the
Governor of the State of California

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

I GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by Section 3(b) Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California, on the 3rd day of January, 2001, at a time appointed by each house of the Legislature of said day for the following purpose and to legislate upon the following subjects:

1. To consider and act upon legislation affecting the availability, supply, consumption, and use of energy in California.
2. To consider and act upon legislation affecting the organization, corporate governance, including finances, and oversight of the California Independent System Operator (CAISO) and the California Power Exchange (CalPX), California not-for-profit corporations.
3. To consider and act upon legislation affecting the operation, maintenance, and finances of facilities owned or controlled directly or indirectly by persons or corporations that provide heat, light, and power to California residents and businesses.
4. To consider and act upon legislation affecting the interaction between wholesale and retail markets for energy supply, capacity and reliability.
5. To consider and act upon legislation protecting the health and safety of California residents with respect to facilities that generate and deliver energy service in California.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 3rd day of January 2001.


Governor of California

ATTEST:

Secretary of State



STATUTES OF CALIFORNIA

2001–02

FIRST EXTRAORDINARY SESSION

2001 CHAPTERS

CHAPTER 1

An act to amend Sections 335 and 341.2 of, to add Sections 352 and 352.5 to, and to repeal and add Section 337 of, the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 18, 2001. Filed with
Secretary of State January 18, 2001.]

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

SECTION 1. Section 335 of the Public Utilities Code is amended to read:

335. In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter, any reference to the Oversight Board shall mean the Electricity Oversight Board. Its functions shall be all of the following:

(a) To oversee the Independent System Operator and the Power Exchange.

(b) (1) To exercise the exclusive right to decline to confirm the appointments of members of the governing board of the Independent System Operator.

(2) To determine the composition and terms of service and to exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange.

(c) To serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the Oversight Board has the exclusive right to decline to confirm include proposed governing board members representing agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups.

SEC. 2. Section 337 of the Public Utilities Code is repealed:

SEC. 3. Section 337 is added to the Public Utilities Code, to read:

337. (a) Within 90 days of the effective date of the act adding this section, the existing Independent System Operator governing board shall be replaced by a five-member independent governing board of directors appointed by the Governor. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c) (1) All appointments shall be for one-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The Oversight Board shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the Oversight Board determines to be necessary.

SEC. 4. Section 341.2 of the Public Utilities Code is amended to read:

341.2. 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) applies to meetings of the Oversight Board. In addition to the allowances of that act, the Oversight Board may hold a closed session to consider the appointment of one or more candidates to the governing board of the Independent System Operator or the Power Exchange, deliberate on matters involving the removal of a member of the governing board of the Power Exchange, or to consider a matter based on information that has received a grant of confidential status pursuant to regulations of the Oversight Board, provided that any action taken on such a matter shall be taken by vote in an open session.

SEC. 5. Section 352 is added to the Public Utilities Code, to read:

352. The Independent System Operator may not enter into a multistate entity or a regional organization as authorized in Section 359 unless that entry is approved by the Oversight Board.

SEC. 6. Section 352.5 is added to the Public Utilities Code, to read:

352.5. (a) The Independent System Operator shall make publicly available a list of all power plants located in the state that are not operational due to a planned or unplanned outage.

(b) For the purposes of complying with subdivision (a), the Independent System Operator shall make the list available over the Internet.

(c) The Independent System Operator shall update the list established pursuant to subdivision (a) on a daily basis.

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.

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 make the Independent System Operator more accountable to the people of this state by eliminating stakeholder governing boards, thereby acting to mitigate the state's current energy crisis, it is necessary for this act to take effect immediately.

CHAPTER 2

An act to amend Sections 216, 330, and 377 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 18, 2001. Filed with
Secretary of State January 18, 2001.]

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

SECTION 1. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation,

municipality, or other political subdivision of the state, that in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or any portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) Ownership or operation of a facility that employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of that facility.

(e) Any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) The ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from that facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.

(g) Ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission as an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (Chapter 2C (commencing with Section 79) of Title 15 of the United States Code) does not make a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.

(h) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into the Power Exchange referred to in Section 365, or the use or sale as permitted under subdivisions (b) to (d), inclusive, of Section 218, shall not make a corporation or person a public utility within the meaning of this section solely because of that ownership, participation, or sale.

SEC. 2. Section 330 of the Public Utilities Code is amended to read:
330. In order to provide guidance in carrying out this chapter, the Legislature finds and declares all of the following:

(a) It is the intent of the Legislature that a cumulative rate reduction of at least 20 percent be achieved not later than April 1, 2002, for residential and small commercial customers, from the rates in effect on

June 10, 1996. In determining that the April 1, 2002, rate reduction has been met, the commission shall exclude the costs of the competitively procured electricity and the costs associated with the rate reduction bonds, as defined in Section 840.

(b) The people, businesses, and institutions of California spend nearly twenty-three billion dollars (\$23,000,000,000) annually on electricity, so that reductions in the price of electricity would significantly benefit the economy of the state and its residents.

(c) The Public Utilities Commission has opened rulemaking and investigation proceedings with regard to restructuring California's electric power industry and reforming utility regulation.

(d) The commission has found, after an extensive public review process, that the interests of ratepayers and the state as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by electrical corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power.

(e) Competition in the electric generation market will encourage innovation, efficiency, and better service from all market participants, and will permit the reduction of costly regulatory oversight.

(f) The delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety, reliability, environmental protection, and fair access for all market participants.

(g) Reliable electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid.

(h) It is important that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the state.

(i) Reliable electric service depends on conscientious inspection and maintenance of transmission and distribution systems. To continue and enhance the reliability of the delivery of electricity, the Independent System Operator and the commission, respectively, should set inspection, maintenance, repair, and replacement standards.

(j) It is the intent of the Legislature that California enter into a compact with western region states. That compact should require the publicly and investor-owned utilities located in those states, that sell

energy to California retail customers, to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

(k) In order to achieve meaningful wholesale and retail competition in the electric generation market, it is essential to do all of the following:

(1) Separate monopoly utility transmission functions from competitive generation functions, through development of independent, third-party control of transmission access and pricing.

(2) Permit all customers to choose from among competing suppliers of electric power.

(3) Provide customers and suppliers with open, nondiscriminatory, and comparable access to transmission and distribution services.

(l) The commission has properly concluded that:

(1) This competition will best be introduced by the creation of an Independent System Operator and an independent Power Exchange.

(2) Generation of electricity should be open to competition.

(3) There is a need to ensure that no participant in these new market institutions has the ability to exercise significant market power so that operation of the new market institutions would be distorted.

(4) These new market institutions should commence simultaneously with the phase in of customer choice, and the public will be best served if these institutions and the nonbypassable transition cost recovery mechanism referred to in subdivisions (s) to (w), inclusive, are in place simultaneously and no later than January 1, 1998.

(m) It is the intention of the Legislature that California's publicly owned electric utilities and investor-owned electric utilities should commit control of their transmission facilities to the Independent System Operator. These utilities should jointly advocate to the Federal Energy Regulatory Commission a pricing methodology for the Independent System Operator that results in an equitable return on capital investment in transmission facilities for all Independent System Operator participants.

(n) Opportunities to acquire electric power in the competitive market must be available to California consumers as soon as practicable, but no later than January 1, 1998, so that all customers can share in the benefits of competition.

(o) Under the existing regulatory framework, California's electrical corporations were granted franchise rights to provide electricity to consumers in their service territories.

(p) Consistent with federal and state policies, California electrical corporations invested in power plants and entered into contractual obligations in order to provide reliable electrical service on a nondiscriminatory basis to all consumers within their service territories who requested service.

(q) The cost of these investments and contractual obligations are currently being recovered in electricity rates charged by electrical corporations to their consumers.

(r) Transmission and distribution of electric power remain essential services imbued with the public interest that are provided over facilities owned and maintained by the state's electrical corporations.

(s) It is proper to allow electrical corporations an opportunity to continue to recover, over a reasonable transition period, those costs and categories of costs for generation-related assets and obligations, including costs associated with any subsequent renegotiation or buyout of existing generation-related contracts, that the commission, prior to December 20, 1995, had authorized for collection in rates and that may not be recoverable in market prices in a competitive generation market, and appropriate additions incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that the costs are necessary to maintain those facilities through December 31, 2001. In determining the costs to be recovered, it is appropriate to net the negative value of above market assets against the positive value of below market assets.

(t) The transition to a competitive generation market should be orderly, protect electric system reliability, provide the investors in these electrical corporations with a fair opportunity to fully recover the costs associated with commission approved generation-related assets and obligations, and be completed as expeditiously as possible.

(u) The transition to expanded customer choice, competitive markets, and performance based ratemaking as described in Decision 95-12-063, as modified by Decision 96-01-009, of the Public Utilities Commission, can produce hardships for employees who have dedicated their working lives to utility employment. It is preferable that any necessary reductions in the utility workforce directly caused by electrical restructuring, be accomplished through offers of voluntary severance, retraining, early retirement, outplacement, and related benefits. Whether workforce reductions are voluntary or involuntary, reasonable costs associated with these sorts of benefits should be included in the competition transition charge.

(v) Charges associated with the transition should be collected over a specific period of time on a nonbypassable basis and in a manner that does not result in an increase in rates to customers of electrical corporations. In order to insulate the policy of nonbypassability against incursions, if exemptions from the competition transition charge are granted, a firewall shall be created that segregates recovery of the cost of exemptions as follows:

(1) The cost of the competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from those customers.

(2) The cost of the competition transition charge exemptions granted to members of the combined class of customers other than residential and small commercial customers shall be recovered only from those customers. The commission shall retain existing cost allocation authority provided that the firewall and rate freeze principles are not violated.

(w) It is the intent of the Legislature to require and enable electrical corporations to monetize a portion of the competition transition charge for residential and small commercial consumers so that these customers will receive rate reductions of no less than 10 percent for 1998 continuing through 2002. Electrical corporations shall, by June 1, 1997, or earlier, secure the means to finance the competition transition charge by applying concurrently for financing orders from the Public Utilities Commission and for rate reduction bonds from the California Infrastructure and Economic Development Bank.

(x) California's public utility electrical corporations provide substantial benefits to all Californians, including employment and support of the state's economy. Restructuring the electric services industry pursuant to the act that added this chapter will continue these benefits, and will also offer meaningful and immediate rate reductions for residential and small commercial customers, and facilitate competition in the supply of electric power.

SEC. 3. Section 377 of the Public Utilities Code is amended to read:

377. The commission shall continue to regulate the facilities for the generation of electricity owned by any public utility prior to January 1, 1997, that are subject to commission regulation until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission under Section 851 to undertake that disposal. Notwithstanding any other provision of law, no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.

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.

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 ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers, and are not deregulated as a consequence of market valuation, without appropriate review and authorization of the Public Utilities Commission pursuant to Section 851 of the Public Utilities Code, it is necessary that this act take effect immediately.

CHAPTER 3

An act to add and repeal Section 200 of the Water Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 19, 2001. Filed with
Secretary of State January 19, 2001.]

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

SECTION 1. Section 200 is added to the Water Code, to read:

200. (a) The Legislature finds and declares that there is an urgent short-term need for the State of California, through the department, to assist in meeting the public's electricity needs through the emergency purchase of electricity. It is the intent of the Legislature that this section clarify on a temporary basis the department's authority to purchase electricity and make it available to assist in meeting California's energy needs.

(b) For a period not to exceed 12 days from the effective date of this section, the department may purchase electric power from any party and make that electric power available at the cost of its purchase, plus any administrative costs (not to exceed a total amount of one million dollars (\$1,000,000) for all purchases entered into pursuant to this section), transmission and scheduling costs, and other related costs, incurred by the department, to the Independent System Operator, public utility electrical corporations, or retail end-use customers. With respect to electric power made available to retail end-use customers, the customers shall be responsible for costs at no more than the rates established by the Public Utilities Commission in effect on the date the power is made available to the customers.

(c) The purchases made pursuant to this section are separate and apart from the State Water Resources Development System, and the obligations incurred and funding of those contracts and arrangements shall be maintained by the department, separate and distinct from the funds, moneys and obligations of the State Water Resources Development System.

(d) Notwithstanding any other provision of law, the department shall use any and all means feasible, as determined by the department, to secure the state's right and ability to recover funds expended pursuant to this section.

(e) No contract or purchase agreement shall contain terms that diminish the state's interest in recovering any funds expended for purchase of power at rates that exceed just and reasonable rates.

(f) There is hereby established in the State Treasury the Department of Water Resources Electric Power Fund. Notwithstanding Section 13340 of the Government Code, money in the fund is continuously appropriated without regard to fiscal year to the department for purposes of this section. All revenues payable to the department under this act shall be deposited in the fund. Notwithstanding any other provision of law, interest accruing on money in the fund shall remain in the fund and shall be used for the purposes of this act. Payments from the fund may be made only for the purposes authorized by this section.

(g) All contracts authorized by this act shall be payable solely from the fund established pursuant to this section.

(h) Neither the full faith and credit nor the taxing power of the state are or may be pledged for payment for any obligation authorized under this section.

(i) The Public Utilities Commission shall adopt and implement emergency regulations that shall become effective on the operative date of this section to provide for delivery and payment mechanisms relating to the sale of electric power purchased by the department for sale directly or indirectly to the Independent System Operator, public utilities, or retail end-use customers.

(j) No purchases of electric power shall be entered into pursuant to this section after February 1, 2001. No purchases of electric power entered into pursuant to this section may extend in duration past February 15, 2001.

(k) This section shall become inoperative on February 2, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of four hundred million dollars (\$400,000,000) is hereby transferred from the General Fund to the Department of Water

Resources Electric Power Fund, established by Section 200 of the Water Code, for the purposes of implementing Section 1 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 ensure that the State of California and its citizens have an adequate supply of electricity, thereby preserving the public health, safety, and welfare, it is necessary that this act take effect immediately.

CHAPTER 4

An act to amend Section 366.5 of, and to add Section 360.5 to, and to repeal Section 355.1 of, the Public Utilities Code, and to add Division 27 (commencing with Section 80000) to the Water Code, relating to electric power, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 1, 2001. Filed with
Secretary of State February 1, 2001.]

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

SECTION 1. Section 355.1 of the Public Utilities Code is repealed.

SEC. 2. Section 360.5 is added to the Public Utilities Code, to read:

360.5. The commission shall determine that portion of each existing electrical corporation's retail rate effective on January 5, 2001, that is equal to the difference between the generation related component of the retail rate and the sum of the costs of the utility's own generation, qualifying facility contracts, existing bilateral contracts, and ancillary services. That portion of the retail rate shall be known as the California Procurement Adjustment. The commission shall further determine the amount of the California Procurement Adjustment that is allocable to the power sold by the department. That amount shall be payable, by each electrical corporation, upon receipt by the electrical corporation of the revenues from its retail end use customers, to the department for deposit in the Department of Water Resources Electric Power Fund, established by Section 80200 of the Water Code. The amount determined pursuant to this subdivision shall be known as the Fixed Department of Water Resources Set-Aside.

SEC. 3. Section 366.5 of the Public Utilities Code is amended to read:

366.5. (a) No change in the aggregator or supplier of electric power for any small commercial customer may be made until one of the following means of confirming the change has been completed:

- (1) Independent third-party telephone verification.
- (2) Receipt of a written confirmation received in the mail from the consumer after the consumer has received an information package confirming the agreement.
- (3) The customer signs a document fully explaining the nature and effect of the change in service.
- (4) The customer's consent is obtained through electronic means, including, but not limited to, computer transactions.

(b) No change in the aggregator or provider of electric power for any residential customer may be made over the telephone until the change has been confirmed by an independent third-party verification company, as follows:

(1) The third-party verification company shall meet each of the following criteria:

(A) Be independent from the entity that seeks to provide the new service.

(B) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by an entity that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the entity.

(C) Operate from facilities physically separate from those of the entity that seeks to provide the new service.

(D) Not derive commission or compensation based upon the number of sales confirmed.

(2) The entity seeking to verify the sale shall do so by connecting the resident by telephone to the third-party verification company or by arranging for the third-party verification company to call the customer to confirm the sale.

(3) The third-party verification company shall obtain the customer's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the customer upon request. Information obtained from the customer through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved resident against the entity or its employees who are responsible for the violation.

(4) Notwithstanding paragraphs (1), (2), and (3), an aggregator or provider of electric power shall not be required to comply with these provisions when the customer directly calls an aggregator or provider of electric power to change service providers. However, an aggregator or provider of electric power shall not avoid the verification requirements

by asking a customer to contact an aggregator or provider of electric power directly to make any change in the service provider.

(c) No change in the aggregator or provider of electric power for any residential customer may be made via an Internet transaction, in which the customer accesses the website of the aggregator or provider, unless both of the following occur with respect to confirming the change:

(1) In addition to any other information gathered in the course of the transaction, the customer shall be asked to read and respond to a separate screen that states, in easily legible text, the following:

“I acknowledge that in entering this transaction I am voluntarily choosing to change the entity that supplies me with my electric power.”

(2) The separate screen shall offer the customer the option to complete or terminate the transaction.

(d) (1) No change in the aggregator or provider of electric power for any residential customer may be made via a written transaction unless the change has been confirmed, as provided in this subdivision. In order to comply with this subdivision, in addition to any other information gathered in the course of the transaction, and in addition to any other signature required, the customer shall be asked to sign and date a document separate from that written transaction, containing the following words printed in 10-point type or larger:

“I acknowledge that in signing this contract or agreement, I am voluntarily choosing to change the entity that supplies me with electric power.”

(2) The acknowledgment document described in paragraph (1) may not be included with a check or in connection with a sweepstakes solicitation.

(e) Any aggregator or provider of electric power offering electricity service to residential and small commercial customers that switches the electric service of a customer without the customer’s consent shall be liable to the aggregator or provider of electric power offering electricity services previously selected by the customer in an amount equal to all charges paid by the customer after the violation and shall refund to the customer any amount in excess of the amount that the customer would have been obligated to pay had the customer not been switched.

(f) An aggregator or provider of electric power shall keep a record of the confirmation of a change pursuant to subdivision (b), (c), or (d) for two years from the date of that confirmation, and shall make those records available, upon request, to the customer and to the commission in the course of a commission investigation of a customer complaint or an investigation pursuant to subdivision (c) of Section 394.2.

(g) Public agencies are exempt from this section to the extent they are serving customers within their jurisdiction.

(h) Notwithstanding subdivisions (c) and (d), the commission may require third-party verification for all residential changes to electric service providers if it finds that the application of subdivisions (c) and (d) results in the unauthorized changing of a customer's electric service provider.

(i) An electrical corporation is exempt from this section for customers that default to the service of the electrical corporation.

(j) Electric power sold to customers pursuant to Section 80100 of the Water Code is not subject to this section.

SEC. 4. Division 27 (commencing with Section 80000) is added to the Water Code, to read:

DIVISION 27. PURCHASE AND SALE OF ELECTRIC POWER

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

80000. The Legislature hereby finds and declares all of the following:

(a) The furnishing of reliable reasonably priced electric service is essential for the safety, health, and well-being of the people of California. A number of factors have resulted in a rapid, unforeseen shortage of electric power and energy available in the state and rapid and substantial increases in wholesale energy costs and retail energy rates, with statewide impact, to such a degree that it constitutes an immediate peril to the health, safety, life and property of the inhabitants of the state, and the public interest, welfare, convenience and necessity require the state to participate in markets for the purchase and sale of power and energy.

(b) In order for the department to adequately and expeditiously undertake and administer the critical responsibilities established in this division, it must be able to obtain, in a timely manner, additional and sufficient personnel with the requisite expertise and experience in energy marketing, energy scheduling, and accounting.

80002. Nothing in this division shall be construed to reduce or modify any electrical corporation's obligation to serve. The commission shall issue orders it determines are necessary to carry out this section. Nothing in this section shall be construed to obligate the department for any procurement cost obligations of any electrical corporation that may have existed as of the effective date of this section.

80002.5. It is the intent of the Legislature that power acquired by the department under this division shall be sold to all retail end use customers being served by electrical corporations, and may be sold, to the extent practicable, as determined by the department, to those local publicly owned electric utilities requesting such power. Power sold by

the department to retail end use customers shall be allocated pro rata among all classes of customers to the extent practicable.

80003. (a) The development and operation of a program as provided in this division is in all respects for the welfare and the benefit of the people of the state, to protect the public peace, health, and safety, and constitutes an essential governmental purpose.

(b) This division shall be construed in a manner so as to effectuate the purposes and objectives thereof.

80004. (a) The powers and responsibilities of the department established under this division are within the scope of the primary duties of the department, but are not governed by the provisions relating to the State Water Resources Development System.

(b) The Department of Water Resources Electric Purchases Fund, established by Section 80200, and the money in that fund are separate and distinct from any other fund and money administered by the department.

80010. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Bonds" means bonds, notes, or other evidences of indebtedness issued solely for the purposes of paying the cost of electric power and transmission, scheduling, and other related expenses incurred by the department on and after the effective date of this division, or to reimburse expenditures from the fund for those purposes; repaying to the General Fund any advances made to the department from appropriations made to the fund pursuant hereto or hereafter for purposes of this division, any advances made to the department from the Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001; establishing or maintaining reserves in connection with the bonds; costs of issuance of bonds or incidental to their payment or security; capitalized interest; or to renew or refund any bonds.

(b) "Commission" means the Public Utilities Commission.

(c) "Electrical corporation" has the same meaning as that term is defined in Section 218 of the Public Utilities Code.

(d) "Fund" means the Department of Water Resources Electric Power Fund established by Section 80200.

(e) "Local publicly owned electric utility" includes the entities defined in subdivision (d) of Section 9604 of the Public Utilities Code and publicly owned utilities that provide electricity.

(f) "Power" means electric power and energy, including, but not limited to, capacity and output, or any of them.

(g) "Public utility" has the same meaning as that term is defined in Section 216 of the Public Utilities Code.

80012. The department shall do those things necessary and authorized under Chapter 2 (commencing with Section 80100) to make power available directly or indirectly to electric consumers in California. Except as otherwise stated, nothing in this division authorizes the department to take ownership of the transmission, generation, or distribution assets of any electrical corporation in this state.

80014. (a) The department and commission may adopt regulations for purposes of this division as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservations of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(b) Unless the department determines that application of any such provision to such contracts is detrimental to accomplishing the purposes of this division, the provisions of the Government Code and Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements, apply to contracts entered into under this division.

80016. All state agencies and other official state organizations, and all persons connected therewith, shall and are hereby authorized to, at the request of the department, give the department reasonable assistance or other cooperation in carrying out the purposes of this division.

CHAPTER 2. POWER PROGRAM

Article 1. Powers of the Department

80100. Upon those terms, limitations, and conditions as it prescribes, the department may contract with any person, local publicly owned electric utility, or other entity for the purchase of power on such terms and for such periods as the department determines and at such prices the department deems appropriate taking into account all of the following:

(a) The intent of the program described in this division is to achieve an overall portfolio of contracts for energy resulting in reliable service at the lowest possible price per kilowatthour.

(b) The need to have contract supplies to fit each aspect of the overall energy load profile.

(c) The desire to secure as much low-cost power as possible under contract.

(d) The duration and timing of contracts made available from sellers.

(e) The length of time sellers of electricity offer to sell such electricity.

(f) The desire to secure as much firm and nonfirm renewable energy as possible. Prior to commencement of the program described in this division, the department shall assess the need for power in the state in consultation with the Public Utilities Commission and local publicly owned electric utilities and electrical corporations in the state and such other entities in the state as the department determines are appropriate. The department may also enter into options or forward contracts with respect to the foregoing, and contract with any person, local publicly owned electric utility, or other entity for transmission, scheduling, and other related power services necessary or desirable to accomplish the purposes of this division.

80102. (a) Contracts under this division may provide for the assignment thereof on any terms and conditions as the contracts may specify.

(b) Any contract for the purchase or sale of electric power shall contain any contractual terms and security provisions as are determined by the department to be necessary or appropriate and the department may enter into such arrangements as may be necessary or appropriate to implement the foregoing.

(c) Notwithstanding any other provision of law, the department may pay or provide for the payment of power or use of transmission or distribution facilities and other related services prior to the delivery or utilization thereof, provided that the department determines that prepayment is beneficial to ratepayers and that adequate provision has been made for the security of the department.

80104. Upon the delivery of power to them, the retail end use customers shall be deemed to have purchased that power from the department. Payment for any sale shall be a direct obligation of the retail end use customer to the department.

80106. (a) The department may contract with the related electrical corporation or its successor in the performance of related service, for the electrical corporation or its successor in the performance of related service, to transmit or provide for the transmission of, and distribute the power and provide billing, collection, and other related services, as agent of the department, on terms and conditions that reasonably compensate the electrical corporation for its services.

(b) At the request of the department, the commission shall order the related electrical corporation or its successor in the performance of related service, to transmit or provide for the transmission of, and

distribute the power and provide billing, collection, and other related services, as agent of the department, on terms and conditions that reasonably compensate the electrical corporation for its services.

80108. The commission may issue rules regulating the enforcement of the agency function pursuant this division, including collection and payment to the department.

80110. The department shall retain title to all power sold by it to the retail end use customers. The department shall be entitled to recover, as a revenue requirement, amounts and at the times necessary to enable it to comply with Section 80134, and shall advise the commission as the department determines to be appropriate. Such revenue requirements may also include any advances made to the department hereunder or hereafter for purposes of this division, or from the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001. For purposes of this division and except as otherwise provided in this section, the Public Utility Commission's authority as set forth in Section 451 of the Public Utilities Code shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department. The commission may enter into an agreement with the department with respect to charges under Section 451 for purposes of this division, and that agreement shall have the force and effect of a financing order adopted in accordance with Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as determined by the commission. In no case shall the commission increase the electricity charges in effect on the date that the act that adds this section becomes effective for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, until such time as the department has recovered the costs of power it has procured for the electrical corporation's retail end use customers as provided in this division. After the passage of such period of time after the effective date of this section as shall be determined by the commission, the right of retail end use customers pursuant to Article 6 (commencing with Section 360) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code to acquire service from other providers shall be suspended until the department no longer supplies power hereunder. The department shall have the same rights with respect to the payment by retail end use customers for power sold by the department as do providers of power to such customers.

80112. All money collected with respect to any power acquired and sold pursuant to this division and the Governor's Emergency Proclamation dated January 17, 2001, and all money paid directly or indirectly to or for the account of the department with respect to any sale,

exchange, transfer, or disposition of power acquired pursuant hereto, shall constitute property of the department and shall be deposited in the fund in accordance with subdivision (b) of Section 80200. To the extent any moneys are received by an electrical corporation pursuant to Section 80106 in the process of collection, and pending their transfer to the department, they shall be segregated by the electrical corporation on terms and conditions established by the department and shall be held in trust for the benefit of the department.

80114. The commission shall take those actions necessary to ensure that all, or a portion of, the component rates that are available to electrical corporations for the purchase of their net short position of electricity are used to recover the revenue requirements established pursuant to this division.

80116. The department may sell any power acquired by the department pursuant to this division to retail end use customers, and to local publicly owned electric utilities, at not more than the department's acquisition costs, including transmission, scheduling, and other related costs, plus other costs as provided in Section 80200, or exchange power with any person or public or private entity. The department may not sell power to any local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code, which is itself a net seller of power. However, to the extent that any acquired power is not required for use within the state, if it is otherwise advantageous and necessary, the power may be sold, transferred, or otherwise disposed of, or an option may be granted with respect to the power, to any person or public or private entity. Except to maintain system integrity, the department shall sell the power that is to be delivered to retail end use customers within the service area of the electrical corporations that purchase power from the electrical corporations directly to the retail end use customers.

80120. The department may fix and establish the procedure and charges for the sale or other disposal of power purchased by the department.

80122. The department may do any of the following as may be, in the determination of the department, necessary for the purposes of this division:

(a) Hire and appoint employees as required, at salary levels determined by the director to be competitive to attract and retain persons with the necessary expertise and skills. Prior to hiring or appointing an employee at a salary in excess of a salary approved by the Department of Personnel Administration, the director shall submit the proposed salary to the Director of Finance who shall submit it to the Legislature in accordance with Section 27.00 of the annual Budget Act. No excess salary authorized under this section may be paid on or after January 1, 2003. The excess portion of a salary authorized under this section may

not be considered salary in the calculation of final compensation for purposes of benefits under the Public Employees' Retirement System.

(b) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this division.

(c) Contract for the services of other public agencies.

(d) The State Personnel Board and the Department of Personnel Administration shall assist the department in expediting the hiring of personnel necessary and desirable for the timely and successful implementation and administration of the department's duties and responsibilities pursuant to this division.

CHAPTER 2.5. BONDS

80130. The department may incur indebtedness and issue bonds as evidence thereof, provided that bonds may not be issued in an amount the debt service on which, to the extent payable from the fund, is expected by the department to exceed the amounts expected to be available in the fund for their payment. In no event shall the department authorize the issuance of bonds (excluding notes issued in anticipation of the issuance of bonds and retired from the proceeds of those bonds) in an aggregate amount greater than the amount calculated by multiplying by a factor of four the annual revenues generated by the California Procurement Adjustment, as determined by the commission pursuant to Section 360.5. In addition, before the issuance of bonds, the department shall establish a mechanism to ensure that the bonds will be sold at investment grade ratings and repaid on a timely basis from pledged revenues. This mechanism may include, but is not limited to, an agreement between the department and the commission as described in Section 80110.

80132. (a) Bonds may be issued by the department upon authorization by written determination of the director of the department with the approval of the Director of Finance and the State Treasurer. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations of its written determination. The bonds shall be sold at such prices and in such manner, and on such terms and conditions, as shall be specified in such determination, and such determination may contain or authorize any other provision, condition, or limitation not inconsistent herewith and such provisions as may be deemed reasonable and proper for the security of the bondholders. Bonds may mature at such time or times, and bear interest at such rate or rates, which may be fixed or variable and be determined by reference to an index or such other method, as shall be specified in

such determination. Neither the person executing the determination to issue bonds nor any person executing bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

(b) In the discretion of the department, any bonds may be secured by a trust agreement by and between the department and a corporate trustee, which may be any trust company or bank having trust powers within or without the state, or the State Treasurer. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as such trustee. The department may enter into such contracts or arrangements as it shall deem to be necessary or appropriate for the issuance and further security of the bonds.

(c) Bonds shall be legal investments for all trust funds, the funds of all insurance companies, banks both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and, for any funds that may be invested in county, school, or municipal bonds.

(d) Notwithstanding that bonds may be payable from a special fund, they shall be deemed to be negotiable instruments for all purposes.

(e) Any and all bonds, their transfer and the income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(f) Bonds shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the department, or a pledge of the faith and credit of the state or of any such political subdivision, other than the department, but shall be payable solely from the funds herein provided for. All bonds shall contain a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal or of interest on this bond." The issuance of bonds shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(g) The department may pledge or assign any revenues under any obligation entered into, and rights to receive the same, and moneys on deposit in the fund and income or revenue derived from the investment thereof, as security for the department's obligations hereunder. It is the intention of the Legislature that any pledge of moneys, revenues, or property made by the department shall be valid and binding from the time when the pledge is made; that the moneys, revenues, or property so pledged and thereafter collected from retail end use customers, or paid directly or indirectly to or for the account of the department, is hereby made, and shall immediately be, subject to the lien of such pledge

without any physical delivery thereof or further act; that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the department irrespective of whether such parties have notice thereof, and that no resolution or instrument by which such pledge or lien created pursuant to this subdivision is expressed, confirmed, or approved need be filed or recorded in order to perfect such pledge or lien. The provisions hereof shall in all respects govern the creation, perfection, priority, and enforcement of any lien created hereby or hereunder.

80134. (a) The department shall, and in any obligation entered into pursuant to this division may covenant to, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the fund, to provide all of the following:

(1) The amounts necessary to pay the principal of and premium, if any, and interest on all bonds as and when the same shall become due.

(2) The amounts necessary to pay for power purchased by it and to deliver it to purchasers, including the cost of electric power and transmission, scheduling, and other related expenses incurred by the department, or to make payments under any other contracts, agreements, or obligations entered into by it pursuant hereto, in the amounts and at the times the same shall become due.

(3) Reserves in such amount as may be determined by the department from time to time to be necessary or desirable.

(4) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(5) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001.

(6) The administrative costs of the department incurred in administering this division.

(b) The department shall notify the commission of its revenue requirement pursuant to Section 80110.

CHAPTER 3. DEPARTMENT OF WATER RESOURCES ELECTRIC POWER FUND

80200. (a) There is hereby established in the State Treasury the Department of Water Resources Electric Power Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are

continuously appropriated, without regard to fiscal year, to the department, and shall be available for the purposes of this division. It is the intent of the Legislature that this fund be a continuation of the fund created in Chapter 3 of the Statutes of 2001 (SB 7 of the First 2001–02 Extraordinary Session).

(b) All revenues payable to the department under this division shall be deposited in the fund. Notwithstanding any other provision of law, interest accruing on money in the fund shall remain in the fund and shall be used for the purposes of this division. Payments from the fund may be made only for the purposes authorized by this division, including, but not limited to, payments for any of the following:

(1) The cost of electric power and transmission, scheduling, and other related expenses incurred by the department.

(2) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(3) Payment of any bonds or other contractual obligations authorized by this division.

(4) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor’s Emergency Proclamation dated January 17, 2001. It is the intent of the Legislature that such repayment be made as soon as practicable.

(c) Except as provided in subdivision (b) of Section 5 of the statute adding this section, the administrative costs of the department incurred in administering this division shall be provided in the annual Budget Act.

(d) Obligations authorized by this division shall be payable solely from the fund. Neither the full faith and credit nor the taxing power of the state are or may be pledged for any payment under any obligation authorized by this division.

(e) While any obligations of the department incurred under this division remain outstanding and not fully performed or discharged, the rights, powers, duties, and existence of the department and the commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of or parties to such obligations. The department may include this pledge and undertaking of the state in the department’s obligations.

CHAPTER 4. REPORTING

80250. The department shall make quarterly and annual reports to the Governor and the Legislature regarding its activities and expenditures pursuant to this division.

CHAPTER 5. TERMINATION OF AUTHORITY TO CONTRACT

80260. On and after January 1, 2003, the department shall not contract under this division for the purchase of electrical power. This section does not affect the authority of the department to administer contracts entered into prior to that date or the department's authority to sell electricity.

CHAPTER 6. AUDIT

80270. The Bureau of State Audits shall conduct a financial and performance audit of the department's implementation of this division. The audit shall be completed before December 31, 2001. The bureau shall issue a final report on or before March 31, 2003.

SEC. 5. The following sums are hereby transferred or appropriated from the General Fund, as follows:

(a) Four hundred ninety-five million seven hundred fifty-five thousand dollars (\$495,755,000) is hereby transferred to the Department of Water Resources Electric Power Fund, established by Section 80200 of the Water Code, for the purposes of Division 27 (commencing with Section 80000) of the Water Code. The four hundred ninety-five million seven hundred fifty-five thousand dollars (\$495,755,000) shall be repaid from the fund to the General Fund at the earliest possible time.

(b) Four million two hundred forty-five thousand dollars (\$4,245,000) is appropriated to the department for the 2000–01 fiscal year for the administrative costs incurred by the department for the purposes of Division 27 (commencing with Section 80000) of the Water Code.

SEC. 6. The Department of Finance may authorize the creation of deficiencies for the appropriation made by Section 5 of the act adding this section. No deficiency may be approved under this section any sooner than 10 days after written notification of the proposed deficiency is given to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.

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 address the rapid, unforeseen shortage of electric power and energy available in the state and rapid and substantial increases in wholesale energy costs and retail energy rates, that endanger the health, welfare, and safety of the people of this state, it is necessary for this act to take effect immediately.

CHAPTER 5

An act to amend Section 332.1 of, and to add Section 332.2 to, the Public Utilities Code, relating to electric power, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 2001. Filed with
Secretary of State April 9, 2001.]

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

SECTION 1. Section 332.1 of the Public Utilities Code is amended to read:

332.1. (a) (1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company," as modified below.

(2) It is also the intent of the Legislature that to the extent that the Federal Energy Regulatory Commission orders refunds to electrical corporations pursuant to their findings, the commission shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and five-tenths cents (\$0.065) per kilowatt hour on the energy component of electric bills for electricity supplied to residential, small commercial, and street lighting customers by the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if

undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), and may adjust the frozen rate from the levels specified in subdivision (f), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish an initial frozen rate of six and five-tenths cents (\$.065) per kilowatthour on the energy component of electric bills for electricity supplied to all customers by the San Diego Gas and Electric Company not subject to subdivision (b), for the time period ending with the end of the rate freeze for the Pacific Gas and Electric Company and the Southern California Edison Company pursuant to Section 368, retroactive to February 7, 2001. The commission shall consider the comparable energy components of rates for comparable customer classes served by the Pacific Gas and Electric Company and the Southern California Edison Company and, if it determines it to be in the public interest, the commission may adjust this frozen rate, and may do so, retroactive to the date that rate increases took effect for customers of Pacific Gas and Electric Company and Southern California Edison Company pursuant to the commission's March 27, 2001, decision. The commission shall adjust the California Procurement Adjustment and the Fixed Department of Water Resources Set-Aside determined pursuant to Section 360.5 for customers subject to this section to reflect a retail rate consistent with the rate for the energy component of electric bills as determined in this subdivision, in place of the retail rate in effect on January 5, 2001. This section shall be construed

to modify the payment provisions, but may not be construed to modify the electric procurement obligations of the Department of Water Resources, pursuant to any contract or agreement in accordance with Division 27 (commencing with Section 80000) of the Water Code, and in effect as of February 7, 2001, between the Department of Water Resources and San Diego Gas and Electric Company.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

(h) Nothing in this section shall be construed to limit the authority of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code, including without limitation, the authority to fix and establish the procedure and charges for the sale or other disposal of power purchased by the department and sold to retail end-use customers and the authority to recover its revenue requirements.

SEC. 2. Section 332.2 is added to the Public Utilities Code, to read:

332.2. Rates set by the commission that are subject to subdivision (f) of Section 332.1 shall not result in any retroactive recovery of undercollections by the San Diego Gas and Electric Company. Any undercollection resulting from the retroactive rate reductions ordered pursuant to this chapter, retroactive to February 7, 2001, shall not result in a revenue undercollection to San Diego Gas and Electric Company.

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

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

In order to safeguard economic viability of the communities in the San Diego region, it is necessary that this act take effect immediately.

CHAPTER 6

An act to amend Section 332.1 of, and to add Section 332.2 to, the Public Utilities Code, relating to electric power, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 11, 2001. Filed with
Secretary of State April 12, 2001.]

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

SECTION 1. Section 332.1 of the Public Utilities Code is amended to read:

332.1. (a) (1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company," as modified below.

(2) It is also the intent of the Legislature that to the extent that the Federal Energy Regulatory Commission orders refunds to electrical corporations pursuant to their findings, the commission shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and five-tenths cents (\$0.065) per kilowatthour on the energy component of electric bills for electricity supplied to residential, small commercial, and street lighting customers by the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level

specified in subdivision (b), and may adjust the frozen rate from the levels specified in subdivision (f), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish an initial frozen rate of six and five-tenths cents (\$.065) per kilowatthour on the energy component of electric bills for electricity supplied to all customers by the San Diego Gas and Electric Company not subject to subdivision (b), for the time period ending with the end of the rate freeze for the Pacific Gas and Electric Company and the Southern California Edison Company pursuant to Section 368, retroactive to February 7, 2001. The commission shall consider the comparable energy components of rates for comparable customer classes served by the Pacific Gas and Electric Company and the Southern California Edison Company and, if it determines it to be in the public interest, the commission may adjust this frozen rate, and may do so, retroactive to the date that rate increases took effect for customers of Pacific Gas and Electric Company and Southern California Edison Company pursuant to the commission's March 27, 2001, decision. The commission shall determine the Fixed Department of Water Resources Set-Aside pursuant to Section 360.5 for customers subject to this section, reflecting a retail rate consistent with the rate for the energy component of electric bills as determined in this subdivision, in place of the retail rate in effect on January 5, 2001. This section shall be construed to modify the payment provisions, but may not be construed to modify the electric procurement obligations of the Department of Water Resources, pursuant to any contract or agreement in accordance with Division 27 (commencing with Section 80000) of the Water Code, and in effect as of February 7, 2001, between the Department of Water Resources and San Diego Gas and Electric Company.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the

commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

(h) Nothing in this section shall be construed to limit the authority of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

SEC. 2. Section 332.2 is added to the Public Utilities Code, to read:

332.2. Rates set by the commission that are subject to subdivision (f) of Section 332.1 shall not result in any retroactive recovery of undercollections by the San Diego Gas and Electric Company. Any undercollection resulting from the retroactive rate reductions ordered pursuant to this chapter, retroactive to February 7, 2001, shall not result in a revenue undercollection to San Diego Gas and Electric Company.

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

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

In order to safeguard economic viability of the communities in the San Diego region, it is necessary that this act take effect immediately.

CHAPTER 7

An act to amend Section 15814.20 of, and to add and repeal Chapter 3.5 (commencing with Section 4240) of Division 5 of Title 1 of, the Government Code, to amend Section 25402.5 of the Public Resources Code, and to add Sections 740.7, 740.9, 740.10, and 740.11 to the Public Utilities Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 11, 2001. Filed with
Secretary of State April 12, 2001.]

I have signed Senate Bill 5X with the following line item vetoes and reductions to more closely align the bill with my expenditure plan and to prioritize conservation measures for this summer.

I am eliminating the following appropriation:

\$10 million to the California Energy Commission (CEC) for incentives for installation of light-emitting diode (LED) traffic signals.

In addition, I am reducing the following allocations:

From the funds appropriated to the Public Utilities Commission, reduce the allocation from \$16.3 million to \$12 million for pump and motor retrofits for oil and gas producers and pipelines.

From the funds appropriated to the CEC, reduce the allocation from \$60 million to \$40 million for allocation to locally owned public utilities for energy efficiency, peak demand reduction and low-income assistance measures. However, I am directing the Department of Community Services and Development to offset this reduction by proportionally increasing the Low-Income Home Energy Assistance Program (LIHEAP) funds appropriated by this bill to community based organizations in areas served by locally owned public utilities.

From the funds appropriated to the CEC, reduce the allocation from \$35 million to \$30 million for programs for the low-energy usage building materials program.

From the funds appropriated to the CEC, reduce the allocation from \$75 million to \$70 million for the purchase of high-efficiency electrical agricultural equipment.

From the funds appropriated to the Department of General Services, reduce the allocation from \$50 million to \$40 million for energy efficiency projects in state buildings, including community colleges.

Regretfully, a previous version of this bill contained a \$15.4 million appropriation to the Department of Water Resources to implement recommendations from my Advisory Drought Planning Panel. These funds would have provided incentives to better manage surface and groundwater resources to create greater energy and water efficiencies. I encourage the Legislature to appropriate funds for this important purpose.

GRAY DAVIS, Governor

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

SECTION 1. The Legislature finds and declares as follows:

(a) California is currently experiencing an energy crisis which threatens to adversely affect the economic and environmental well-being of the state.

(b) One of the most cost-effective, efficient, and environmentally beneficial methods of meeting the state's energy needs is to encourage the efficient use of energy.

(c) The purpose of this act is to ensure the immediate implementation of energy efficiency programs in order to reduce consumption of energy and to assist in reducing the costs associated with energy demand.

(d) To the maximum extent feasible, the expenditure of funds appropriated pursuant to this act shall be prioritized based upon immediate benefits in peak energy demand reduction and more efficient use of energy.

SEC. 2. Section 15814.20 of the Government Code is amended to read:

15814.20. The board shall not enter into leases and energy service contracts authorized under this chapter sooner than 15 days after notification in writing of the necessity therefor has been submitted to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house, or sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. At the request of the chairperson of the joint committee, the joint committee may hold a hearing within 15 days of receipt of the notification. If a hearing is held, the affected agencies shall be provided all information available to the joint committee at least 10 days in advance of the hearing. In the event that a hearing is conducted, the joint committee may recommend to the board approval, modification, or rejection of leases or energy service contracts.

SEC. 3. Chapter 3.5 (commencing with Section 4240) is added to Division 5 of Title 1 of the Government Code, to read:

CHAPTER 3.5. STATE ENERGY PROJECTS

4240. It is the intent of the Legislature to permit state agencies to implement energy conservation and efficiency measures on public property in accordance with this chapter in the most expedient manner possible.

4241. As used in this chapter, and as used in Section 3 of the act adding this chapter, "state energy project" means equipment, load management techniques, and other measures or services that reduce energy consumption and provide for more efficient use of energy in state buildings or facilities, or buildings or facilities owned or operated by community colleges.

4242. State energy projects may be implemented under this chapter with the approval of the Director of General Services and the Director of Finance.

4243. Prior to awarding or entering into a contract, agreement, or lease, the state agency shall request proposals from qualified persons. After evaluating the proposals, the state agency shall award contracts based on qualifications, including the consideration of such factors as the experience of the contractor, the type of technology to be employed by the contractor on the energy project, the cost to the agency, and any other relevant considerations. State agencies may also award contracts to persons selected from the pool of qualified energy service companies established pursuant to Section 388 of the Public Utilities Code, when it is determined they are qualified to perform the work on a particular project. For purposes of this chapter, energy projects shall be exempt from Chapter 10 (commencing with Section 4525).

4244. Notwithstanding Section 4243, the Director of General Services may exempt a state energy project from the advertising and competitive bidding requirements of this code and the Public Contract Code, if the director deems the exemption necessary to implement the purpose of this chapter, to reduce peak electricity demand, and to improve energy efficiency.

4245. At the discretion of the Department of Finance, state energy projects may be exempted from the capital outlay process, including, but not limited to, Section 13332.11.

4246. The Department of General Services may adopt regulations for purposes of this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For purposes of Chapter 3.5, including, but not limited to, Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of public peace, health, safety, and general welfare. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as provided in subdivision (e) of Section 11346.1.

4246.5. On or before October 1, 2001, and quarterly thereafter, the Department of Finance shall provide to the Chairperson of the Joint Legislative Budget Committee a report of all state energy projects implemented pursuant to the exemptions provided either in Section 4244 or 4245 of this chapter.

4247. This chapter shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 4. Section 25402.5 of the Public Resources Code is amended to read:

25402.5. (a) As used in this section, "lighting device" includes, but is not limited to, a lamp, luminaire, light fixture, lighting control, ballast, or any component of those devices.

(b) (1) The commission shall consider both new and replacement, and both interior and exterior, lighting devices as lighting which is subject to subdivision (a) of Section 25402.

(2) The commission shall include both indoor and outdoor lighting devices as appliances to be considered in prescribing standards pursuant to paragraph (1) of subdivision (c) of Section 25402.

(3) The Legislature hereby finds and declares that paragraphs (1) and (2) are declarative of existing law.

(c) The commission shall adopt efficiency standards for outdoor lighting. The standards shall be technologically feasible and

cost-effective. As used in this subdivision, "outdoor lighting" refers to all electrical lighting that is not subject to standards adopted pursuant to Section 25402, and includes, but is not limited to, street lights, traffic lights, parking lot lighting, and billboard lighting. The commission shall consult with the Department of Transportation (CALTRANS) to ensure that outdoor lighting standards that affect CALTRANS are compatible with that department's policies and standards for safety and illumination levels on state highways.

SEC. 5. In order to achieve a total reduction in peak electricity demand of not less than 2,585 megawatts, the sum of seven hundred eight million nine hundred thousand dollars (\$708,900,000) is hereby appropriated from the General Fund to the Controller for allocation according to the following schedule:

(a) In order to achieve a reduction in peak electricity demand and meet urgent needs of low-income households, two hundred forty six million three hundred thousand dollars (\$246,300,000) for allocation by the Public Utilities Commission for the customers of electric and gas corporations subject to commission jurisdiction, to be expended in the following amounts:

(1) Fifty million dollars (\$50,000,000) to encourage the purchase of energy efficient equipment, and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment insulation or other efficiency measures. Any funds expended pursuant to this paragraph for the purchase of refrigerators, air-conditioning equipment, and other similar residential appliances shall be expended pursuant to the following criteria:

(A) Priority for the expenditure of funds shall be given for the purchase or retirement of those appliances in low- and moderate-income households, and for the replacement of the oldest and least efficient appliances.

(B) Any retirement of residential equipment and appliances undertaken pursuant to this paragraph shall be undertaken in a manner that protects public health and the environment. Nothing in this paragraph affects the requirements of Article 10.1 (commencing with Section 25211) of Chapter 6.5 of Division 20 of the Health and Safety Code and Chapter 3.5 (commencing with Section 42160) of Part 3 of Division 30 of the Public Resources Code.

(2) One hundred million dollars (\$100,000,000) to provide immediate assistance to electric or gas utility customers enrolled in, or eligible to be enrolled in, the California Alternative Rates for Energy (CARE) Program established pursuant to Section 739.1 of the Public Utilities Code. Funds appropriated pursuant to this paragraph shall be expended to increase and supplement CARE discounts and to increase

enrollment in the CARE program. These funds shall be available to assist those customers enrolled or eligible for CARE who are on payment arrangements or have current or pending overdue notices due to increases in energy rates. Not more than 10 percent of the funds appropriated in this subdivision shall be allocated for mass marketing to increase enrollment. The funding provided in this subdivision is intended to supplement, but not replace, surcharge-generated revenues utilized to fund the CARE program.

(3) Twenty million dollars (\$20,000,000) to augment funding for low-income weatherization services provided pursuant to Section 2790 of the Public Utilities Code, and to fund other energy efficient measures to assist low-income energy users.

(4) Sixteen million three hundred thousand dollars (\$16,300,000) for high-efficiency and ultra-low-polluting pump and motor retrofits for oil or gas, or both, producers and pipelines. For the purposes of this paragraph, "ultra low polluting" means retrofit equipment which exceeds the requirements for best available control technology within the air district in which the pump or motor is located.

(5) Sixty million dollars (\$60,000,000) to provide incentives to encourage replacement of low-efficiency lighting with high-efficiency lighting systems.

(b) In order to achieve a reduction in peak electricity demand, two hundred eighty-two million six hundred thousand dollars (\$282,600,000) to the State Energy Resources Conservation and Development Commission (hereafter the Energy Commission), to be expended in the following amounts for the following purposes:

(1) Sixty million dollars (\$60,000,000) for allocation by the Energy Commission to locally owned public utilities for energy efficiency, peak demand reduction, and low income assistance measures in the service areas of the locally owned public utilities analogous to those measures and programs funded in the service areas of the electric and gas corporations subject to the jurisdiction of the Public Utilities Commission pursuant to subdivision (a).

To the extent that any of the funds allocated to the locally owned public utilities are used to encourage the purchase of energy efficiency equipment and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment insulation, and other efficiency measures, funds expended pursuant to this paragraph for the purchase of refrigerators, air-conditioning equipment, and other similar residential appliances shall be expended pursuant to the following criteria:

(i) Priority for expenditure of funds shall be given for the purchase of those appliances in low- and moderate-income households, and for the replacement of the oldest and least efficient appliances.

(ii) Any retirement of residential equipment and appliances undertaken pursuant to this paragraph shall be undertaken in a manner that protects public health and the environment. Nothing in this paragraph affects the requirements of Article 10.1 (commencing with Section 25211) of Chapter 6.5 of Division 20 of the Health and Safety Code and Chapter 3.5 (commencing with Section 42160) of Part 3 of Division 30 of the Public Resources Code.

(2) Thirty-five million dollars (\$35,000,000) to implement programs to improve demand-responsiveness in heating, ventilation, air-conditioning, lighting, advanced metering of energy usage, and other systems in buildings. Of the amount appropriated pursuant to this paragraph, ten million dollars (\$10,000,000) shall be used to encourage the purchase and installation of advanced metering and telemetry equipment for agricultural and water pumping customers in order to improve load management and demand responsiveness techniques particularly applicable to this sector.

(3) Thirty-five million dollars (\$35,000,000) to implement a low-energy usage building materials program, and other measures to lower air-conditioning usage in schools, colleges, universities, hospitals, and other nonresidential buildings. These funds shall not be available for community college facilities if Assembly Bill No. 29 of the First Extraordinary Session is enacted, becomes effective, and provides funding for energy efficiency measures to the community college from the Proposition 98 Reversion Account.

(4) Fifty million dollars (\$50,000,000) to implement a program to encourage third parties to implement innovative peak demand reduction measures.

(A) Of the amount appropriated pursuant to this paragraph, ten million dollars (\$10,000,000) shall be used for the California Agricultural Pump Energy Program to facilitate the efficiency testing of existing agricultural water pumps and to provide incentives for the retrofitting of pumps to increase efficiency as necessary. Up to one million dollars (\$1,000,000) of those funds shall be used for grants to local public agencies to enhance and expedite the testing of agricultural water pumps.

(B) Of the amount appropriated pursuant to this paragraph, not more than one million dollars (\$1,000,000) shall be expended by the commission to fund one-time startup costs for innovative voluntary programs to reduce air emissions through energy conservation and related actions pursuant to programs authorized by law in effect on the effective date of this act.

(5) Seventy-five million dollars (\$75,000,000) to implement programs to reduce peak load electricity usage, encourage bio-gas digestion power production technologies, enhance conservation and

encourage the use of alternative fuels, including, but not limited to instate natural gas resources for the agricultural and water pumping sector. These funds shall be allocated by the Energy Commission, in the form of rebates or grants, in the following amounts for the following purposes:

(A) Forty-five million dollars (\$45,000,000) to encourage the purchase of high efficiency electrical agricultural equipment, installed, on or after January 1, 2001, and incentives for overall electricity conservation efforts. Eligible equipment shall include, but not be limited to, lighting, refrigeration, or cold storage equipment. Any agricultural energy conservation incentive program shall recognize the increased demand due to currently reduced water supply conditions.

(B) Fifteen million dollars (\$15,000,000) to offset the costs of retrofitting existing natural gas powered equipment to burn alternative fuels, including, but not limited to, instate produced "non-spec" or "off-spec" natural gas.

(C) Fifteen million dollars (\$15,000,000) in grants to be used for pilot projects designed to encourage the development of bio-gas digestion power production technologies.

(i) Ten million dollars (\$10,000,000) of these funds shall be used to provide grants for the purpose of encouraging the development of manure methane power production projects on California dairies.

(ii) Five million dollars (\$5,000,000) of these funds shall be used to provide grants to reduce peak usage in southern California by revision of system operations to produce replacement energy as a byproduct of the anaerobic digestion of bio-solids and animal wastes.

(6) Ten million dollars (\$10,000,000) to provide incentives for installation of light-emitting diode (LED) traffic signals.

(7) Seven million dollars (\$7,000,000) to implement a program to teach school children about energy efficiency in the home and at school.

(8) Ten million dollars (\$10,000,000) for incentives for the retrofit of existing distributed generation owned and operated by municipal water districts to replace diesel and natural gas generation with cleaner technology that reduces oxides of nitrogen emissions. Funds expended pursuant to this paragraph shall be expended exclusively for retrofit equipment that meets or exceeds the requirements for best available control technology within the air district in which the distributed generation owned and operated by a municipal water district is located, or with standards adopted by the state Air Resources Board pursuant to Section 41514.9 of the Health and Safety Code upon the effective date of those standards. Technologies eligible pursuant to this paragraph include natural gas reciprocating engines, microturbines, fuel cells, and wind and solar energy renewable technologies.

(9) Six hundred thousand dollars (\$600,000) for four personnel-years to improve the ability of the Energy Commission to provide timely and accurate assessments of electricity and natural gas markets.

(c) Except for funds expended to implement programs established pursuant to Section 25555 of the Public Resources Code, for which the Public Utilities Commission or the Energy Commission has adopted and published guidelines pursuant to that section, funds appropriated pursuant to subdivisions (a) and (b) shall be expended pursuant to guidelines adopted by each commission. The guidelines shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of the Division 3 of Title 2 of the Government Code and shall do all of the following:

(1) Establish cost-effectiveness criteria for programs funded. Within 10 days from the date of the adoption of criteria pursuant to this paragraph, each commission shall provide a copy of the criteria to the chairperson of the Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(2) Limit administrative costs to not more than 2¹/₂ percent of the amount of the funds expended. For the purposes of this paragraph, "administrative costs" means commission personnel and overhead costs associated with the implementation of each measure or program. However, "administrative costs" does not include costs associated with marketing or evaluation of a measure of a program, including any two-year limited positions, as approved by the Department of Finance, necessary to implement the programs.

(3) Allow reasonable flexibility to shift funds among program categories in order to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(4) Establish matching fund criteria that, except for funds appropriated pursuant to paragraphs (2) and (3) of subdivision (a), ensure that entities eligible to receive funds appropriated pursuant to subdivisions (a) and (b) pay an appropriate share of the cost of acquiring or installing measures to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(5) Establish mechanisms and criteria that ensure that funds expended pursuant to this section through electric and gas corporations are not seized by the creditors of those corporations in the event of a bankruptcy. In implementing this paragraph, the commissions shall adopt mechanisms such as the segregation of funds by the electric or gas corporation, the holding of those funds in trust until they are expended, and the reversion of funds to the General Fund in the event of bankruptcy.

(6) Establish tracking and auditing procedures to ensure that funds are expended in a manner consistent with this act.

(d) Within six months of the effective date of this section, each commission shall contract for an independent audit of the expenditures made pursuant to subdivisions (a) and (b) for the purpose of determining whether the funds achieved demonstrable energy peak demand reduction while limiting administrative costs associated with expenditures made pursuant to those subdivisions. Within one year of the effective date of this section, each commission shall submit the audit prepared pursuant to this paragraph to the Chairperson of the Joint Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(e) Ten million dollars (\$10,000,000) to the Department of Consumer Affairs to implement a public awareness program to reduce peak electricity usage. Any public awareness program to reduce peak electricity usage conducted by the Department of Consumer Affairs after November 30, 2001, shall be conducted pursuant to a contract in accordance with Article 4 (commencing with Section 10335) of Chapter 2 of the Public Contract Code. The department shall ensure that the program includes the use of nontraditional mass media, including, but not limited to, the use of community based organizations, mass media in different languages, and media targeted to low-income and ethnically diverse communities.

(f) Fifty million dollars (\$50,000,000) to the Department of General Services to be expended for the purposes of implementing Chapter 3.5 (commencing with Section 4240) of Division 5 of Title 1 of the Government Code. The department shall limit its administrative costs to not more than 2¹/₂ percent of the funds expended. For the purposes of this paragraph, "administrative costs" means personnel and overhead costs associated with implementation of each measure or program. However, "administrative costs" does not include costs associated with marketing or evaluation of a measure or program.

(g) One hundred twenty million dollars (\$120,000,000) to the Department of Community Services and Development for the purpose of supplementing the Low-Income Home Energy Assistance Program (LIHEAP). The department may also use these funds for the purposes of increasing participation in the LIHEAP program. The department shall use funds appropriated pursuant to this paragraph in the following manner:

(1) The department shall implement a California Low Income Home Energy Assistance Program (LIHEAP). Services provided by California's LIHEAP shall be designed to do both of the following:

(A) Increase energy conservation and reduce demand for energy services in low-income households.

(B) Assure that the most vulnerable households cope with high energy costs.

(2) The program shall include weatherization and conservation services, energy crisis intervention services, and cash assistance payments.

(3) (A) Eligibility for California LIHEAP shall include households with incomes that do not exceed the greater of either of the following:

(i) An amount equal to 60 percent of the state median income.

(ii) An amount equal to 80 percent of the county median income.

(B) In no area shall eligibility be provided to households whose income is greater than 250 percent of the federal poverty level for this state.

(4) The department shall examine the penetration of other energy programs, including, but not limited to, those provided through federal LIHEAP, utility companies, and other parties, to identify the adequacy of services to elderly persons, disabled persons, limited-English-speaking persons, migrant and seasonal farmworkers and households with very young children. California LIHEAP funds shall be distributed so as to ensure that vulnerable populations have comparable access to energy programs.

(5) The department shall ensure that services under California LIHEAP are delivered using all of the following requirements:

(A) The department shall establish reasonable limits for expenditures, including up to 15 percent for outreach and training for consumers.

(B) Grantee agencies shall do special outreach to vulnerable households, including outreach to senior centers, independent living centers, welfare departments, regional centers, and migrant and seasonable farmworkers.

(C) Grantee agencies shall be required to coordinate with other low-income energy programs, and to demonstrate plans for using all energy resources efficiently for maximum outreach to low-income households.

(D) Grantee agencies shall spend the maximum feasible amount of California LIHEAP funds for weatherization assistance, but in no event less than 50 percent of the funds available by grantee. The balance shall be used for cash assistance and energy crisis intervention. The department shall provide grantees with maximum flexibility to use energy crisis and cash assistance funds to resolve energy crisis for households and to serve the maximum number of households. Cash assistance payments may be used as a supplement to federal LIHEAP cash assistance payments.

(6) The department shall do the following in addition to administering the program:

(A) Explore, with grantee agencies, standards for determining effective, efficient intake, and procedures to combine outreach for federal, state, and utility low-income energy programs into a single intake process.

(B) Report to the policy and budget committees of the Legislature on the extent to which increased flexibility in weatherization measures and flexibility in cash assistance and crisis intervention payments have increased service and reduced energy demand. If barriers to flexibility exist, the report should identify those barriers.

(C) Report to the policy and budget committees of the Legislature on the number of recipients of service, the number of grantees providing service, categories of expenditure, estimated impact of funds on energy demand, estimated unmet need, and plans for automated reporting of this information routinely.

(7) For any funds distributed in 2001, the department shall distribute funds as follows:

(A) Funds shall be distributed to have maximum possible impact on reducing energy demand immediately.

(B) First priority shall be to distribute funds through community-based programs with whom it has existing contracts.

(C) If additional capacity is needed beyond the existing network, or if vulnerable populations cannot be served within the existing contracts, the department may develop an RFP process to solicit additional grantees.

(8) The department shall limit administrative costs to not more than 2¹/₂ percent of the funds expended. For the purposes of this paragraph, "administrative costs" means personnel and overhead costs associated with the implementation of each measure or program. However, "administrative costs" does not include costs associated with the marketing or evaluation of a measure or program.

(h) Each state agency receiving funds appropriated pursuant to this section shall ensure, where appropriate, not less than 85 percent of the funds shall be expended for direct rebates, purchases, direct installations, buy-downs, loans, or other incentives that will achieve reductions in peak electricity demand and improvements in energy efficiency.

(i) On or before January 1, 2002, each state agency receiving funds appropriated pursuant to this section shall provide quarterly reports to the Chairperson of the Joint Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor, which include all of the following information:

(1) The amount of funding expended.

(2) The measures, programs, or activities that were funded.

(3) A description of the effectiveness of the measures, programs, or activities funded in reducing peak electricity demand and improving energy efficiency, as measured in kilowatthours of electricity reduced per dollar expended.

(j) To the extent that local government entities may apply for, and receive funds pursuant to this section, and to the extent they otherwise qualify for the funds, federally recognized California Indian tribes may apply for funds appropriated pursuant to this section on behalf of their tribal members, and the applications shall be considered on their merits. Each commission shall ensure that its efforts to provide public information on programs funded pursuant to this section shall include outreach to California Indian tribes.

SEC. 6. Any contracts entered into pursuant to Section 5 of this act by a state agency are exempt from the following requirements of the Government Code and the Public Contracts Code:

(a) Services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(b) Consulting services contracts are exempt from Article 5 (commencing with Section 10359) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(c) Architectural and engineering contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, and from Sections 6106 and 6106.5 of the Public Contract Code.

(d) All contracts are exempt from Section 10295 of the Public Contract Code, relating to approval from the Department of General Services.

(e) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

(f) Grants may be awarded for projects or programs that include a group of related projects, or to a party who aggregates projects that directly benefit from the grant. The grants do not constitute the rendering of goods or services or a direct benefit to the agency making the grant.

(g) Contracts may be awarded pursuant to subdivision (c) of Section 25555 of the Public Resources Code by choosing from among one or more parties, or soliciting multiple applications from parties capable of providing goods or services. For purposes of this section, Section 25555 of the Public Resources Code shall, notwithstanding, any provision of law to the contrary, apply during the period this section is effective, as set forth in Section 7 of the act adding this section. Contracts may be awarded to develop or administer or both, portions of the program, including agency delegation of the authority to implement the program.

(h) The Public Utilities Commission and the Energy Commission may each delegate approval of contracts and grants to the agency executive director or an agency committee up to a maximum amount that shall be established by the respective commission.

SEC. 7. Section 740.7 is added to the Public Utilities Code, to read:

740.7. Interruptible service or curtailment programs adopted by the commission shall assure that the programs allow customers to aggregate multiple accounts to meet any minimum kilowatt requirements for participation in the program, subject to geographical, load, and other parameters, as determined by the commission.

SEC. 8. Section 740.9 is added to the Public Utilities Code, to read:

740.9. (a) Any optional binding mandatory curtailment program adopted by the commission that exempts customers from Stage 3 rotating outages in exchange for partial load curtailments during every rotating outage period shall provide, for agricultural and water supplier customers, the use of backup generation to offset the curtailed load under the program, to the extent the use of backup generation is allowed under existing law, including, but not limited to, all relevant local air pollution control district and air quality management district rules and regulations.

(b) As used in this section, "agricultural customers" means any customer involved in the production of or processing of agricultural products. "Water suppliers" means those water agencies or suppliers as defined in Section 20200 of the Water Code and Section 241 of the Public Utilities Code.

SEC. 9. Section 740.10 is added to the Public Utilities Code, to read:

740.10. (a) Each public utility electrical corporation shall develop and offer its customers, on or before May 30, 2001, the opportunity to participate, in addition to other programs developed by the commission, in a demand reduction program as described in this section.

(b) The program required by this section shall identify specific periods coincident with morning or evening system peak conditions determined by the Independent System Operator within which the customer agrees to drop a preset amount of load. This program shall be known as the Scheduled Load Reduction Program. The commission shall develop appropriate incentives for customers to participate in the program.

SEC. 10. Section 740.11 is added to the Public Utilities Code to read:

740.11. In recognition of the fact that agricultural and water supplier customers necessarily have high electricity usage during peak summer demand periods, the Legislature strongly urges the commission to consider providing the option to all agricultural commodity processing customers to be included in the definition of customers eligible to be served under agricultural tariffs, consistent with its other constitutional

and statutory objectives, and to the extent it does not result in cost shifting to other customer classes.

SEC. 11. Sections 5 and 6 of this act 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. Any funds appropriated under Section 5 of this act that are unencumbered by March 31, 2002, shall revert to the General Fund on that date, except that funds appropriated pursuant to paragraph (2) of subdivision (a) and subdivision (g) of Section 5 are not subject to this reversion requirement.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the shortage of electric generation capacity to meet the needs of the people of this state and in order to limit further impacts of this shortage on the public health, safety, and welfare, it is necessary that this act take effect immediately.

CHAPTER 8

An act to add and repeal Article 2 (commencing with Section 81610) and Article 2.5 (commencing with Section 81620) to Chapter 3 of Part 49 of the Education Code, to add Article 6 (commencing with Section 14710) to Chapter 2 of Part 5.5 and Article 4 (commencing with Section 15350) to Chapter 1 of Part 6.7 of Division 3 of Title 2 of, the Government Code, to amend Sections 26003 and 26011.5 of, to add Section 26011.6 to, to add Chapter 5.3 (commencing with Section 25425) to Division 15 of, and to add and repeal Chapter 4 (commencing with Section 14420) of Division 12 of, the Public Resources Code, to amend Section 739 of, to amend, repeal, and add Section 2827 of, to add Sections 739.10, 2827.5, and 2827.7 to, and to add and repeal Section 739.11 of, the Public Utilities Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 11, 2001. Filed with
Secretary of State April 12, 2001.]

I have signed Assembly Bill AB 29X with the following line item vetoes and reductions to more closely align the bill with my expenditure plan and to prioritize conservation measures for this summer.

I am eliminating the following:

\$25,150,000 million re-appropriation from the Proposition 98 Reversion Account to the Chancellor of the California Community Colleges for energy efficient projects and a statewide utility usage database. These funds are already budgeted for other purposes and are required by law to be used by community colleges for educational purposes.

\$20 million to the Department of Community Services and Development to supplement the Low-Income Housing Energy Assistance Program (LIHEAP). \$120 million has been provided for this program in SB 5X.

\$50 million to the California Energy Commission (CEC) for loans and grants for construction and retrofit projects and \$50 million to the CEC for the Small Business Energy Efficiency Refrigeration Loan Program. These new programs require the establishment of administrative procedures and will not deliver peak reduction savings for this summer.

\$24 million to the Department of Corrections to install systems to retrofit generating units. These funds would not increase electricity supply or reduce demand.

\$15 million to the Public Utilities Commission to fund a study of real-time meters. This bill appropriates funds for the purchase and installation of these meters.

In addition, I am reducing the following allocations:

From the funds allocated to the California Conservation Corps, reduce the allocation from \$40 million to \$20 million for the Mobile Efficiency Brigade. In order to achieve the most effective energy savings by this summer, I am directing the Conservation Corps to use these funds to purchase materials and mobilize crews to deliver high efficiency lighting to low-income residences.

While I am signing this bill, it is my understanding that the Legislature will enact subsequent legislation to remove the mandate created by the Statewide Energy Management Program. I am also requesting subsequent legislation to continuously appropriate the Renewable Energy Loan Guarantee Program. It is standard for loan guarantee programs to be continuously appropriated and not contingent upon the annual budget. As drafted, this bill removes the incentive for banks to participate in this worthy program.

GRAY DAVIS, Governor

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

SECTION 1. Article 2 (commencing with Section 81610) is added to Chapter 3 of Part 49 of the Education Code, to read:

Article 2. Summer 2001 Energy Efficiency Projects By Community College Districts

81610. It is the intent of the Legislature to permit community college districts to implement energy conservation, efficiency, cogeneration, and alternate energy supply sources on public property in accordance with this chapter in the most expedient manner possible. It is also the intent of the Legislature that the California Community College system take all steps necessary to ensure that the energy efficiency projects contemplated by this chapter are in place by the summer of 2001.

81611. For the purposes of this article, “energy project” means equipment, load management techniques, or other measures or services

that reduce energy consumption and provide for more efficient use of energy in buildings or facilities owned or operated by community college districts, and that can be completed and energy savings realized by the summer of 2001 in order to minimize the need for future state resources to pay for increased energy costs.

81612. (a) Notwithstanding any other provision of law, prior to awarding, or entering into, any contract, agreement, or lease pursuant to this article, a community college district shall request proposals from qualified persons. After evaluating those proposals, the community college district shall award contracts to responsible persons or entities who submit responses to a request for proposal which are responsive to the requirements of the request for proposals. A community college may award a contract for an energy project under this article to any responsible person or entity timely submitting a responsive answer to the request for proposals based on qualifications, including the consideration of all of the following factors:

(1) Experience of the contractor, architect, engineer, or other consultant, as applicable.

(2) Type of technology to be employed by the contractor on the energy project.

(3) Cost to the district.

(4) Any other considerations deemed relevant by the district.

(b) Notwithstanding any other provision of law, community college districts may award contracts pursuant to a request for proposals issued under this article or award contracts to persons or entities selected from the pool of qualified energy service companies established pursuant to Section 388 of the Public Utilities Code, when it is determined they are qualified to perform the work on a particular project. A request for proposal does not have to be prepared if a community college district elects to award a contract for an energy project to only those persons or entities included in the pool of qualified energy service companies under Section 388 of the Public Utilities Code. If a community college district elects to seek proposals for an energy project pursuant to a request for proposals and from the pool of qualified energy service companies under Section 388 of the Public Utilities Code, the community college district shall prepare a request for proposals. Award of such a contract shall be based upon the factors described in subdivision (a).

81613. (a) Notwithstanding the repeal of this section by Section 81615, on or before January 1, 2002, each community college district receiving funds appropriated pursuant to this section shall provide a report to the Chancellor of the California Community Colleges with the following information:

(1) The amount of funding expended.

(2) The measures, programs, or activities funded.

(3) A description of the effectiveness of the measures, programs, or activities funded in reducing peak electricity demand and improving energy efficiency, as measured in kilowatthours of electricity or British thermal unit hours reduced per dollar expended.

(b) Notwithstanding the repeal of this section by Section 81615, on or before March 1, 2002, the Chancellor of the California Community Colleges shall provide a summary of the reports provided pursuant to subdivision (a) to the Chairperson of the Joint Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

81614. Any contracts entered into pursuant to this chapter by a community college district are exempt from the following requirements:

(a) Architectural, engineering, construction management, and consulting contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(b) All contracts are exempt from Article 3.5 (commencing with Section 81660).

(c) All contracts are exempt from the publication requirements set forth in Section 81641.

(d) All contracts are exempt from Article 41 (commencing with Section 20650) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, except that if in the request for proposals for an energy project under this article, a community college district has established a requirement for bid security, a response to the request for proposal will be deemed responsive only if the response is submitted with the required bid security.

(e) If the value of a project awarded by a community college district to a contractor to implement an energy project under this article is in excess of twenty-five thousand dollars (\$25,000), regardless of whether the requirement is noted in the request for proposals, the contractor awarded such a contract shall obtain and submit to such a community college district for approval of a Labor and Materials Payment Bond conforming to the requirements of Section 3248 of the Civil Code.

(f) If required by the terms of a request for proposals issued by a community college district under this article, the person or entity awarded such a contract shall obtain a performance bond conforming with the applicable requirements of the request for proposals.

81615. This article shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. Article 2.5 (commencing with Section 81620) is added to Chapter 3 of Part 49 of the Education Code, to read:

Article 2.5. Statewide Energy Management Program

81620. This article shall be known, and may be cited, as the Statewide Energy Management Program.

81621. The definitions set forth in this section govern the construction of this article:

(a) "Commission" means the State Energy Resources Conservation and Development Commission.

(b) "Energy independence" means the utilization of existing and developing technologies to meet energy needs onsite, including, but not necessarily limited to, the utilization of solar, fuel cells, and other renewable and clean onsite energy sources, the optimization of the use of daylighting, the use of passive solar orientation, and the use of construction techniques that minimize energy loss, such as appropriate insulation and lighting fixtures.

(c) "Energy management plans" means the plans that community colleges develop with guidance from the Statewide Energy Management Program to implement energy efficiency projects such as sustainable green buildings, renovations, and wind or solar farms that will move the community colleges toward energy independence.

(d) "Program" means the Statewide Energy Management Program, established under this article, which is a state program modeled after the Federal Energy Management Program.

(e) "Renewable or other distributed energy systems" means alternative efficient sources of energy such as daylighting, photovoltaic panels (rooftops or solar farms), passive solar heating, fuel cells, and steam. Diesel-fueled electric generating systems are not included in this definition.

(f) "Sustainable green building" means a building that has been designed to reduce both direct and indirect environmental consequences associated with construction, occupancy, operation, maintenance, and eventual decommissioning, and whose design is evaluated for cost, quality of life, future flexibility, ease of maintenance, energy and resource efficiency, and overall environmental impact, with an emphasis on life-cycle cost analysis.

81622. (a) (1) In Executive Order D-16-00, issued August 2, 2000, Governor Davis directed state agencies to design and construct buildings that incorporate energy efficiency, resource conservation, and renewable technologies. In his State of the State Address delivered on January 8, 2001, Governor Davis expressed his support for the goal of moving the California Community Colleges toward energy independence.

(2) The Federal Energy Management Program, upon which the State Energy Management Program is modeled, has resulted in approximately four dollars (\$4) in savings for every one dollar (\$1) spent. The federal

investment of two billion dollars (\$2,000,000,000) in energy efficiency has resulted in savings of six billion three hundred million dollars (\$6,300,000,000) on energy bills.

(b) In consultation with the commission, the Board of Governors of the California Community Colleges shall further develop and refine certain guidelines for a Statewide Energy Management Program that have been established under an ongoing joint effort of the commission and DeAnza College. This statewide effort shall allow community college districts to achieve energy independence through the development of energy management plans, the construction of sustainable green buildings, the use of renewable or other distributed energy systems, and the expansion of statewide energy education programs and services.

(c) By 2010, the program shall, at a minimum, facilitate the completion of 20 district energy management plans, 15 renewable or other distributed energy systems, and three sustainable green buildings on community college campuses statewide.

(d) In consultation with the commission, the board of governors shall accomplish all of the following:

(1) Review and comment on academic, occupational, and vocational education materials developed by the commission, the Electric Power Research Institute, public utilities, and the community colleges to improve energy education programs and services.

(2) Review and recommend actions regarding successful energy education programs and services that can be identified for replication, personnel exchanges, or implementation of successful practices.

(3) Review and recommend actions regarding program resources for use by the community colleges or state agencies in improving energy education programs and services.

(4) Review exemplary programs and facilities, and recommend activities for adoption, replication, or policy advice.

(5) Review, comment, and recommend actions regarding services that will effect energy conservation.

(6) Review and comment on funding requests received to improve or enhance energy education.

(7) Review and comment on occupational and vocational training programs and services to meet current employment standards in energy occupations.

81623. The board of governors shall encourage the construction of community college sustainable green buildings that implement energy efficiency, sustainable building concepts, and solar electric, fuel cell, and other technologies. On the effective date of this article, the board of governors shall immediately seek a prototype sustainable green

community college instructional building that can be a model for all new construction and retrofit projects statewide.

81624. The Chancellor of the California Community Colleges shall establish an advisory committee for the Statewide Energy Management Program, and determine the membership of that committee. The advisory committee, with technical assistance from the commission, shall make recommendations to the chancellor regarding overall program development, resource development and deployment, and strategies for implementation and coordination of the program. A leadership role on this committee shall initially be provided by the staff of the commission and DeAnza College who have been involved since 1992 in a joint effort to promote training, energy efficiency, and energy independence in the California Community Colleges. This leadership role shall rotate to other community colleges as they complete their own district energy management plans.

SEC. 2.5. Article 6 (commencing with Section 14710) is added to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 6. State Building Energy Retrofits

14710. As used in this article, the following terms have the following meanings:

(a) "Alternative energy equipment" means alternative energy equipment, as defined in subdivision (d) of Section 15814.11, and, in the case of fossil fuel generation, complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purposes of this article, distributed energy resources shall meet emission levels equivalent to nine ppm oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

(b) "Cogeneration equipment" means equipment used for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account life-cycle costing analyses, and environmental, social, and technological factors, however, renewable technologies shall not be exempt based solely on cost considerations.

(d) "Public building" means a public building, as defined in Section 15802.

(e) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in subdivision (a) of Section 15814.12.

14711.5. (a) The department in consultation with the State Energy Resources Conservation and Development Commission, with the concurrence of the Department of Finance, shall identify each public building in the department's state property inventory where it is feasible for that building to reduce energy consumption and achieve energy efficiencies, as well as to produce its own onsite electrical generation or reduce its level of peak demand electricity consumption using alternative energy equipment, thermal energy storage technologies, or cogeneration equipment.

(b) The department may consider a variety of factors, including, but not limited to, the size of the public building, its location, the ease of conversion to onsite electrical generation, peak demand reduction efficiency, cost effectiveness, and the amount of megawatts generated or shifted to off-peak periods.

14712. The director may enter into third party agreements that the director, with the concurrence of the Department of Finance, determines are appropriate and cost-effective to implement energy efficiencies and feasible onsite electric generation pursuant to Section 14711.5 and to achieve the goals of this section. The director may enter into negotiated agreements with parties on the terms and conditions that the director, with the concurrence of the Department of Finance, deems are in the state's interests to accomplish all of the following objectives:

(a) Reduce overall energy consumption in state facilities by 30 percent.

(b) Achieve energy self-sufficiency at state facilities using clean, modern technologies that produce zero air emissions or that meet or exceed state air quality standards.

(c) Maximize the use of renewable energy technologies for both onsite electrical generation as well as thermal energy production.

(d) Utilize private third party financing, where feasible, for the construction, operation, and maintenance of such energy investments.

(e) Achieve these objectives at delivered energy costs equal to or less than the cost of obtaining the energy through the electric grid or other conventional means, as determined by the director.

14713. (a) Notwithstanding subdivision (b) of Section 15814.12, the department shall retrofit all public buildings, identified in Section 14711.5, where feasible, provided that work on public buildings of the California State University shall be performed only at the request or with the consent of the university.

(b) If a public building generates more electricity than it uses, it may make the energy available for the state electrical distribution grid.

14714. On or before two years after the effective date of the act adding this section, and every two years thereafter, the Department of General Services shall prepare and submit to the Legislature and the Governor, a report of the energy savings, if any, in terms of megawatts per year, for each public building retrofitted pursuant to this article.

SEC. 3. Article 4 (commencing with Section 15350) is added to Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

Article 4. Renewable Energy Loan Guarantee Program

15350. The Legislature finds and declares all of the following:

(a) California is experiencing severe electrical shortages, which endanger the health, safety, and economic development opportunity of its citizens.

(b) Immediate measures are needed to increase the electrical generation capacity within California, including energy from economical renewable systems.

(c) California has been a leader in the development of renewable energy systems, from solar to wind to the most advanced fuel cell technology.

(d) California must take all reasonable actions necessary to encourage the continuing construction of renewable energy infrastructure and to maximize reliable, renewable energy systems for homes and businesses.

(e) In order to maximize the commercial lending available to renewable energy projects, it is necessary and appropriate to establish a loan guarantee program to assist in obtaining commercial loans to purchase and install renewable energy system projects.

15351. For the purposes of this article, the following definitions apply:

(a) "Eligible business" means an individual, corporation, political body, partnership, joint venture, association, joint stock company, trust, or unincorporated organization.

(b) "Financial institution" means a financial institution organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans or extend credit, and subject to supervision by an official or agency of this state or the United States.

(c) "Guarantee" means a written agreement between the agency and a financial institution, by which the agency agrees to pay a specified percentage of loan interest and principal for any combination of the following: permitting, acquisition, construction, or installation of one or more renewable energy systems located in the state if the eligible business defaults on the loan and the financial institution complies with the terms of the guarantee.

(d) "Loan" means a contract providing financing for a renewable energy system.

(e) "Renewable energy system" means any device or combination of devices, including distributed generation and cogeneration that meets all of the following requirements:

(1) Conserves or produces one or more of the following:

(A) Heat.

(B) Process heat.

(C) Space heating.

(D) Water heating.

(E) Steam.

(F) Space cooling.

(G) Refrigeration.

(H) Mechanical energy.

(I) Electricity.

(J) Energy in any form convertible to any of the uses specified in subparagraphs (A) to (I), inclusive.

(2) Does not expend or use conventional energy fuels, any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquified natural gas, or nuclear fissionable materials, except as provided in subsection (b) of Section 292.204 of Title 18 of the Code of Federal Regulations.

(3) Uses one of more of the following renewable electricity generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(F) Small hydropower (30 megawatts or less).

(G) Digester gas.

(H) Landfill gas.

15352. (a) The agency, in consultation with the State Energy Resources Conservation and Development Commission, shall administer the California Renewable Energy Loan Guarantee Program to guarantee loans made by financial institutions to eligible businesses for the permitting, acquisition, construction, or installation of renewable energy systems that are intended to decrease the demand on the electricity grid.

(b) Notwithstanding any other provision of this article, the California Renewable Energy Loan Guarantee Program shall not be used to guarantee a loan for any small hydropower project that will require a new or increased diversion from any natural stream, lake, or other body of water, as described in Section 1200 of the Water Code.

15353. (a) The secretary shall establish a Renewable Energy Loan Guarantee Committee for the purpose of approving loan guarantees based upon the criteria and procedures established by the agency. The secretary may include agency staff, the Director of Finance, representatives of other state agencies, and representatives of the public on the committee.

The secretary or his or her designee shall serve as the chairperson of the committee.

(b) The committee shall do both of the following:

(1) Hold regularly scheduled meetings, at least quarterly, to carry out the objectives and responsibilities of the committee.

(2) Approve loan guarantees under this article.

(c) The committee shall not approve any guarantee without a determination that, at a minimum, the applicant appears able to repay the guaranteed financing and the financing is adequately collateralized.

15354. (a) The Renewable Energy Loan Guarantee Committee shall comply with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7), except as specified in subdivision (c).

(b) To the extent that the committee is subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part (1), loan guarantee reviews described in paragraph (2) of subdivision (c) shall be exempt from the requirements of the act.

(c) The California Public Records Act and the Bagley-Keene Open Meeting Act shall not apply to the following activities of the committee:

(1) The disclosure of financial data contained in applications for loan guarantees from the Renewable Energy Loan Guarantee Committee, where the committee determines that disclosure of the financial data would be competitively injurious to the applicant. For this purpose, financial data includes, but is not limited to, financial statements, details of accounts receivable and accounts payable, income tax returns, owner-officer compensation records, collateral details, cash-flow analysis, orders, contracts, financing commitments and agreements, and other documents that would disclose specific names or addresses of customers and suppliers, potential customers and suppliers, or agency and consultant reports analyzing the financial data.

(2) Any loan guarantee review by the Renewable Energy Loan Guarantee Committee. For this purpose, the committee or a subcommittee of the committee may review and approve loan guarantee requests by means of a telephone conference, or in a meeting not open to the public.

15355. There is hereby created in the State Treasury the Renewable Energy Loan Loss Reserve Fund. All money in the fund is appropriated for the support of the agency and shall be available for expenditure for

the purposes stated in this article. The fund shall be available for the receipt of federal, state, and local moneys, and private donations.

15356. (a) The agency shall determine the percentage of the reserve in the Renewable Energy Loan Loss Reserve Fund required to secure loan guarantees made by the committee. However, in no event shall the reserve be less than 25 percent of the fund.

(b) The minimum amount that the agency may guarantee for any renewable energy system is twenty-five thousand dollars (\$25,000) and the maximum amount is two million dollars (\$2,000,000). The agency may elect to lower or raise the minimum or maximum amount if a change is found to be in the best interest of the state.

(c) The term of the guaranteed loan shall not exceed the useful life of the renewable energy system or 15 years, whichever is shorter.

(d) The amount guaranteed shall not exceed 90 percent of a loan, or an amount equal to the anticipated proportion of renewable fuel usage to fuel the renewable energy system, as authorized by paragraph (2) of subdivision (d) of Section 15351, whichever is less.

15357. The agency shall adopt criteria and procedures for the implementation of this article. The criteria and procedures shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1. The criteria and procedures shall include provisions for determining the maximum guarantee amount, leverage, percentage guaranteed, guarantee term, and other conditions of a guarantee. In developing the criteria and procedures for the program, the agency may consult with other state agencies, including the State Energy Resources Conservation and Development Commission. A consultation and public comment period shall begin on the effective date of this article, and shall end 30 days thereafter. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, as provided in subdivision (e) of Section 11346.1.

15358. (a) The agency shall execute guarantees supported solely by funds in the Renewable Energy Loan Loss Reserve Fund.

(b) No guarantee shall be approved unless the eligible business agrees that all electricity generated by the project will be made available within California on a long-term contract basis, except that electricity may be made available outside California upon approval by the Public Utilities Commission.

15359. (a) The agency shall establish a reasonable schedule of administrative fees, not to exceed 2 percent of the guarantee amount, which shall be paid by the eligible business to reimburse the state for the costs of administering this article, including promotion and outreach.

(b) The agency may expend earnings on the deposits from, or up to 5 percent of, the Renewable Energy Loan Loss Reserve Fund for administrative expenses, for the respective fiscal year including promotion and outreach, in carrying out this chapter.

15360. The agency may contract with any state or other agency, persons, or firms to enable the agency to properly perform the duties of this article.

15361. The state shall not be liable or obligated in any way beyond the money that is allocated to the Renewable Energy Loan Loss Reserve Fund as a result of any loan guarantee under this article.

15362. The agency, with the approval of the Director of Finance, may request the Treasurer to invest the money in the Renewable Energy Loan Loss Reserve Fund. Returns from these investments shall be deposited in the fund and shall be used to support this article.

15362.5. Because of the need to immediately increase the availability of renewable energy sources, it is necessary to implement this article without delay. Therefore, from the effective date of this article, and for a period of 18 months thereafter, Section 10295 and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code shall not apply to contracts entered into pursuant to this article. Any contract that is entered into during that 18-month period shall be awarded based upon the receipt of at least three bids, and the award shall be based on a combination of the expertise of the bidder, the bid price, and the probability that the services offered will meet the needs of the program.

SEC. 4. Chapter 4 (commencing with Section 14420) is added to Division 12 of the Public Resources Code, to read:

CHAPTER 4. MOBILE EFFICIENCY BRIGADE

14420. This chapter shall be known and may be cited as the Mobile Efficiency Brigade.

14421. The Legislature finds and declares all of the following:

(a) California is in the midst of a dramatic energy crisis that calls for both an increase in supply and a significant long-term reduction in demand.

(b) Conservation programs require a large mobilization effort across the state, within a short timeframe, in order to affect peak demand anticipated for the summer of 2001 and the subsequent winter.

(c) California's low-income households and small businesses require upgrading, modification, and conservation investment in order to assist them in contributing to a reduction in demand that is required statewide.

(d) Current state programs can work in conjunction with community-based organizations to significantly penetrate communities

and rapidly implement programs aimed at conservation and demand reduction.

(e) The state currently has programs operated and administered by the Department of Community Services and Development and the California Conservation Corps, working in conjunction with and through community-based organizations, that can be expanded to assist in the statewide conservation effort initiated through pending programs.

(f) To the maximum extent feasible, the expenditure of funds appropriated pursuant to this chapter should be prioritized based upon immediate benefits in peak energy demand reduction and more efficient use of energy.

14422. As used in this chapter:

(a) "Community-based organization" means a nonprofit corporation that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) "Program" means the Energy Conservation Act of 2001 (Chapter 5.3 (commencing with Section 25425) of Division 15).

(c) "Energy efficient appliance or measure" means anything that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, 2001, and, if applicable, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission.

(d) "Installation" means all labor needed to install energy efficient equipment, including any necessary construction.

(e) "Low-income household," in the context of the implementation of a specific program, shall be defined as each program specifies. Outside of a specific program, it means households at or below 200 percent of the federal poverty level.

(f) "Small business," in the context of the implementation of a specific program, shall be defined as each program specifies. Outside of a specific program, it means a licensed business that employs not more than 100 persons.

14423. Notwithstanding any other provision of law, the California Conservation Corps and the Department of Community Services and Development, in consultation with the State Energy Resources Conservation and Development Commission, shall expand their current weatherization, energy-efficiency, and rehabilitation programs and assist in the implementation of pending programs as defined in Section 14422, in accordance with the following objectives:

(a) Determine the specifics of program expansion and focus on energy efficiency measures including, but not limited to, energy audits, weatherization including the insulation of doors, windows, walls and ceilings, light bulb replacement with subcompact fluorescent lights,

installation of water-saving devices and heater exchanges, minor repairs and retrofits, appliance removal and replacement, and tree planting.

(b) Identify neighborhoods and areas with dense populations that can be easily served in large numbers.

(c) Establish qualifications and priorities consistent with the objectives of this chapter for making grants and working with community-based organizations.

(d) Establish guidelines for broad geographic distribution across the state, taking into consideration the factors of population density, community need, and seasonal climate conditions.

(e) Establish procedures and policies as may be necessary for the administration of this chapter.

14424. Any contracts entered into pursuant to this chapter by a state agency are exempt from the following requirements of the Government Code and the Public Contract Code:

(a) Services contracts and consulting services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(b) All contracts are exempt from Section 10295 of the Public Contract Code, relating to approval from the Department of General Services.

(c) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

14425. This chapter shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 5. Chapter 5.3 (commencing with Section 25425) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.3. ENERGY CONSERVATION ACT OF 2001

Article 1. General Provisions

25425. This chapter shall be known, and may be cited, as the Energy Conservation Act of 2001.

25426. As used in this article, the following terms have the following meanings:

(a) "Commercial refrigeration" means a refrigerator that is not a federally regulated consumer product.

(b) "Energy-efficient model" means any appliance that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, 2001, and, if applicable, products certified

as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

Article 2. Loans and Grants for Construction and Retrofit Projects

25433. It is the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient by using design elements, including, but not limited to, energy-efficient siding, insulation, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission, and double-paned windows.

25433.5. (a) In consultation with the Public Utilities Commission, the commission shall do both of the following for the purpose of full or partial funding of an eligible construction or retrofit project:

(1) Establish a grant program to provide financial assistance to eligible low-income individuals.

(2) Establish a 2-percent interest per annum loan program to provide financial assistance to a small business owner, residential property owner, or individual who is not eligible for a grant pursuant to paragraph (1). The loans shall be available to a small business owner who has a gross annual income that does not exceed one hundred thousand dollars (\$100,000) or to an individual or residential property owner who has a gross annual household income that does not exceed one hundred thousand dollars (\$100,000).

(b) (1) The commission shall use the design guidelines adopted pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (d) of Section 14 of the act that added this section as standards to determine eligible energy-efficiency projects.

(2) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that the commission applied factors, other than those adopted by the commission, in making the award.

(3) The grant or loan recipient shall commit to using the grant or loan for the purpose for which the grant or loan was awarded.

(4) Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission.

(5) The amount of any grant awarded pursuant to this article to a low-income individual does not constitute income for purposes of

calculating the recipient's gross income for the tax year during which the grant is received.

25434. The commission may contract with one or more business entities capable of supplying or providing goods or services necessary for the commission to carry out the responsibilities for the programs conducted pursuant to this article, and shall contract with one or more business entities to evaluate the effectiveness of the programs implemented pursuant to subdivision (a) of Section 25433.5. The commission may select an entity on a sole source basis for one or both of those purposes if the cost to the state will be reasonable and the commission determines that it is in the best interest of the state.

25434.5. As used in this article, the following terms have the following meanings:

(a) "Eligible construction or retrofit project" means a project for making improvements to a home or building in existence on the effective date of the act adding this section, through an addition, alteration, or repair, which effectively increases the energy efficiency or reduces the energy consumption of the home or building as specified by the commission's guidelines under clause (ii) of subparagraph (D) of paragraph (3) of subdivision (d) of Section 14 of the act that added this section. The improvements shall be deemed to be cost-effective.

(b) "Low income" means an individual with a gross annual income equal to or less than 200 percent of the federal poverty level.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

Article 3. Small Business Energy Efficient Refrigeration Loan Program

25435. The commission shall administer the Small Business Energy Efficient Refrigeration Loan Program, as provided for in Section 25436.

25436. (a) Within 45 days of the effective date of this chapter, the commission shall implement a Small Business Energy Efficient Refrigeration Loan Program for qualifying small businesses to purchase and install energy efficient refrigeration equipment.

(b) The program shall offer loans at 3 percent interest on terms that will ensure the small business owner will repay the loan over time in accordance with terms established by the Energy Commission, but in no event may the term exceed the useful life of the purchase.

(c) The commission may enter into agreements with lending institutions and qualifying vendors to facilitate making and

administering loans. Any loan made by the commission for the purchase of equipment shall be secured against the equipment purchased.

SEC. 6. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) “Cost” as applied to a project or portion thereof financed under this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, 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, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts and meeting the criteria set forth in subdivision (b) of Section 15352 of the Government Code, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) “Alternative sources” does not include any hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and

transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.

- (4) Electric vehicles and ultra-low emission vehicles.
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) "Financial assistance" includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

(2) Any other type of assistance the authority determines is appropriate.

(f) "Participating party" means either of the following:

(1) Any person or any entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(2) Any public agency or nonprofit corporation that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(g) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies.

(h) "Public agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, public district, or other political subdivision.

(i) (1) "Renewable energy" means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

- (A) Biomass.
- (B) Solar thermal.

- (C) Photovoltaic.
- (D) Wind.
- (E) Geothermal.

(2) For purposes of this subdivision, “conventional energy fuel” means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

SEC. 7. Section 26011.5 of the Public Resources Code is amended to read:

26011.5. The authority, in consultation with the State Energy Resources Conservation and Development Commission, shall establish criteria for the selection of projects to receive financing assistance from the authority. In the selection of projects, the authority shall, in accordance with the legislative intent, provide financial assistance under this division in a manner consistent with sound financial practice. In developing project selection criteria, the authority shall consider, but not be limited to, all of the following:

- (a) The technological feasibility of the projects.
- (b) The economic soundness of the projects and a realistic expectation that all financial obligations can and will be met by the participating parties.
- (c) The contribution that the projects can make to a reduction or more efficient use of fossil fuels.
- (d) The contribution that the project can make toward diversifying California’s energy resources by fostering renewable energy systems that can substitute, or preferably eliminate, the demand for conventional energy fuels.

(e) Any other such factors that the authority finds significant in achieving the purposes and objectives of this division.

SEC. 8. Section 26011.6 is added to the Public Resources Code, to read:

26011.6. (a) The authority shall establish a renewable energy program to provide financial assistance to public power entities,

independent generators, utilities, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow emission equipment. The authority shall give preference to utility-scale projects that can be rapidly deployed to provide a significant contribution as a renewable energy supply.

(b) The authority shall make every effort to expedite the operation of renewable energy systems, and shall adopt regulations for purposes of this section and Sections 26011.5 and 26011.7 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding the 120-day limitation specified in subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the authority complies with Sections 11346.2 to 11347.3, inclusive, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) The authority shall consult with the State Energy Resources Conservation and Development Commission regarding the financing of projects to avoid duplication of other renewable energy projects.

(d) The authority shall ensure that any financed project shall offer its power within California on a long-term contract basis.

SEC. 9. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) (1) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life-support equipment, including, but not limited to, emphysema and pulmonary patients. A

residential customer dependent on life-support equipment shall be given a higher energy allocation than the average residential customer.

(2) "Life-support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life-support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

(3) The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating and cooling needs of those persons.

(4) The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(5) The limited additional allowance shall also be made available to scleroderma patients in consideration of the increased heating needs of those persons.

(6) The limited allowance shall also be made available to persons who are being treated for a life-threatening illness or have a compromised immune system, provided that a licensed physician and surgeon or a person licensed pursuant to the Osteopathic Initiative Act certifies in writing to the utility that the additional heating or cooling allowance, or both, made available pursuant to this subdivision is medically necessary to sustain the life of the person or prevent deterioration of the person's medical condition.

(c) (1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage.

(2) In establishing residential electric and gas rates, including baseline rates, the commission shall assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable and while observing the principle that conservation is desirable in order to maintain an affordable bill.

(3) At least until December 31, 2003, the commission shall require that all charges for residential electric customers are volumetric, and shall prohibit any electrical corporation from imposing any charges on residential consumption that are independent of consumption, unless those charges are in place prior to the effective date of the act that added this paragraph.

(d) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedule and excludes industrial, commercial, and every other category of customer.

(e) Wholesale electrical or gas purchases, and the rates charged therefor, are exempt from this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation.

SEC. 10. Section 739.10 is added to the Public Utilities Code, to read:

739.10. The commission shall ensure that errors in estimates of demand elasticity or sales do not result in material over or undercollections of the electrical corporations.

SEC. 10.2. Section 739.11 is added to the Public Utilities Code, to read:

739.11. (a) For purposes of this section, "real time metering" means a system for measuring a customer's usage of electricity on at least an hourly basis, variably pricing that electricity based on the cost of acquisition or production, and regularly providing and updating that usage and pricing information to the customer.

(b) The commission shall conduct a pilot study of real time metering for nonresidential customers. The purpose of the study is to determine the effectiveness of real time metering in reducing energy demand and overall energy consumption, to examine customer response, to determine how real time metering should be implemented, and to determine whether more widespread use of real time metering is in the

public interest. The study shall not duplicate the study required pursuant to Section 393 of the Public Utilities Code. The study shall include rates that vary as the cost of electricity varies and provide appropriate telemetry and other equipment. The study shall include agricultural, large commercial, and industrial customer classes, and may include other customer classes if the commission determines that to do so would be in the public interest. The commission shall report to the Legislature on the results of the study by June 30, 2002.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 11. Section 2827 of the Public Utilities Code is amended to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electrical corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776, or any other entity that offers electrical service.

(2) "Eligible customer-generator" means a residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the customer-generator, at the expense of the electric service provider, and the additional metering shall be used

only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (e), or to collect solar or wind electric generating system performance information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(c) (1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not provide distribution service for the direct transactions, the service provider that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

(3) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier, and the customer is an eligible customer-generator, the service provider that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the commission.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if such customer was not an eligible customer-generator, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be

assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering contracts or tariffs.

(e) For eligible residential and small commercial customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatt-hour consumption over that same period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatt-hours generated shall be valued at the same price per kilowatt-hour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatt-hours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatt-hour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for

if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all residential and small commercial customer-generators and for each monthly period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward until the end of each 12-month period. For all commercial, industrial, and agricultural customer-generators the net balance of moneys owed shall be paid in accordance with the electric service provider's normal billing cycle, except that if the commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period, valued according to the procedures set forth in this section, and appear as a credit on the customer-generator's account, until the end of the annual period when paragraph (3) of subdivision (e) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible residential or small commercial customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding subdivision (e), an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation,

according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a residential or small commercial customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(f) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(g) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 12. Section 2827 is added to the Public Utilities Code, to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage private investment in renewable energy resources, stimulate in-state economic growth, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electric corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776. "Electric service provider" also means an entity that offers electrical service to residential and small commercial customers, as defined in Section 394, if that entity offers net energy metering. Any entity that offers net energy metering to residential and small commercial customers shall comply with this section.

(2) "Eligible customer-generator" means a residential customer, or a small commercial customer as defined in subdivision (h) of Section 331, of an electric service provider, who uses a solar or a wind turbine

electrical generating facility, or a hybrid system of both, with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the customer-generator, at the expense of the electric service provider, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (e), or to collect solar or wind electric generating system performance information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(4) "Ratemaking authority" means, for an electrical corporation as defined in Section 218, or an electrical cooperative as defined in Section 2776, the commission, and for a local publicly owned electric utility as defined in Section 9604, the local elected body responsible for regulating the rates of the utility.

(c) (1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators equals one-tenth of 1 percent of the electric service provider's aggregate customer peak demand.

(2) On an annual basis, beginning in 1999, every electric service provider shall make available to the ratemaking authority information on the total rated generating capacity used by eligible customer-generators that are customers of that provider in the provider's service area. For those electric service providers who are operating pursuant to Section

394, they shall make available to the ratemaking authority the information required by this paragraph for each eligible customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the customer has net energy metering. The ratemaking authority shall develop a process for making the information required by this paragraph available to energy service providers, and for using that information to determine when, pursuant to paragraph (3), a service provider is not obligated to provide net energy metering to additional customer-generators in its service area.

(3) Notwithstanding paragraph (1), an electric service provider is not obligated to provide net energy metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators served by all the electric service providers in that service area furnishing net energy metering to eligible customer-generators equals one-tenth of 1 percent of the aggregate customer peak demand of those electric service providers.

(4) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not offer net energy metering and is therefore not an electric service provider, the customer is not an eligible customer-generator and the electric corporation, as defined in Section 218, that provides distribution service for the direct transactions, is not obligated to provide net energy metering to the customer.

(5) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that offers net energy metering and is therefore an electric service provider, and the customer is an eligible customer-generator, the electric corporation, as defined in Section 218, that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the commission.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if such customer was not an eligible customer-generator. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider that offers net energy metering and is subject to this section pursuant to paragraph (1) of subdivision (b), in accordance with subdivision (e). Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would

increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering contracts or tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible customer-generator during that same period, the eligible customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatt-hour consumption over that same period. The compensation owed for the eligible customer-generator's net 12-month kilowatt-hour consumption shall be calculated as follows:

(A) For eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatt-hours generated shall be valued at the same price per kilowatt-hour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatt-hours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatt-hour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time of use

period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all customer-generators and for each monthly period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward until the end of each 12-month period.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding subdivision (e), an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(f) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all

applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

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

SEC. 12.5. Section 2827.5 is added to the Public Utilities Code, to read:

2827.5. The Legislature finds and declares that the repeal of the provisions of the net metering program for large customers merely reflects a legislative desire to revisit and more closely evaluate the cumulative value and effect of the state's policy regarding renewable energy sources on the economics of investment in solar and wind sources for large net metering customers and to ensure further legislative discussion regarding this issue.

SEC. 12.6. Section 2827.7 is added to the Public Utilities Code, to read:

2827.7. Generation eligible for net metering that is installed on or before December 31, 2002, shall be entitled, for the life of the installation, to the net metering terms in effect on the date of installation.

SEC. 13. 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. 14. The sum of four hundred eight million six hundred fifty thousand dollars (\$408,650,000) is hereby appropriated or reappropriated to the Controller from the following sources:

(a) Twenty-five million one hundred fifty thousand dollars (\$25,150,000) from the Proposition 98 Reversion Account, reappropriated on a one-time basis from the Proposition 98 Reversion Account from moneys appropriated in the 2000-01 fiscal year to community colleges.

(b) Three hundred sixty-eight million five hundred thousand dollars (\$368,500,000) from the General Fund.

(c) The moneys reappropriated from the Proposition 98 Reversion Account shall be allocated to the Chancellor of the California Community Colleges who shall allocate those funds as follows:

(1) Twenty-five million dollars (\$25,000,000) to be expended for the purposes of implementing Article 2 (commencing with Section 81610) of Chapter 3 of Part 49 of Division 7 of Title 3 of the Education Code. The chancellor, in consultation with the State Energy Resources Conservation and Development Commission, shall allocate the funds in this paragraph to all community college districts statewide in an amount equivalent to a district's share of the total gross square footage of all permanent structures reported on the system's October 2000 Space Inventory Report. Notwithstanding any other provision of law, due to the urgent need to realize the necessary energy savings by the summer of 2001 these funds shall be made available to the districts within one week of the effective date of this act. Any funds allocated pursuant to this paragraph that are unencumbered by October 30, 2001, shall revert to the General Fund on that date.

(2) One hundred fifty thousand dollars (\$150,000) as a grant to the Community College League of California to provide a statewide data base of community college district utility usage for immediate application. The data base shall be accessible to the Chancellor's Office of the California Community Colleges as well as to all community college districts statewide to assist in conservation, facilities planning and energy management. The data base shall track the usage of electricity and natural gas, and may track the usage of water, sewer and other utilities. The data base shall further provide an ongoing audit of utility billings to check for billing errors and to ensure that districts recover potential billings that exceed cost of actual usage.

(d) The moneys appropriated from the General Fund shall be allocated as follows:

(1) The sum of forty million dollars (\$40,000,000) shall be deposited in the Renewable Energy Loan Loss Reserve Fund for the purposes of Article 4 (commencing with Section 15350) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code.

(2) (A) The sum of forty million dollars (\$40,000,000) shall be allocated to the California Conservation Corps for costs associated with the purchase, distribution, and installation of subcompact fluorescent

lights, other energy savings measures, and water-saving devices for the purposes of Chapter 4 (commencing with Section 14420) of Division 12 of the Public Resources Code. It is the intent of the Legislature that the California Conservation Corps complete the distribution of the purchased materials by August 31, 2001.

(B) The California Conservation Corps, in implementing the provisions of subparagraph (A), shall consult with the Department of Community Services and Development and the State Energy Resources Conservation and Development Commission, and shall provide for broad geographic distribution of the purchased materials throughout the state, identify neighborhoods and areas with dense populations that can easily be served in large numbers, and take into account community need.

(C) The California Conservation Corps shall report to the Legislature on or before October 31, 2001, on the use of the funds allocated pursuant to this paragraph, the cost effectiveness of the activities, and the number of homes and businesses reached.

(3) The sum of twenty million dollars (\$20,000,000) shall be allocated to the Department of Community Services and Development for disbursement in the forms of grants to community-based organizations for the purposes of Chapter 4 (commencing with Section 14420) of Division 12 of the Public Resources Code, including, but not limited to, the rapid installation of energy efficiency measures.

(4) The sum of one hundred fifty-four million five hundred thousand dollars (\$154,500,000) shall be allocated to the State Energy Resources Conservation and Development Commission for allocation in accordance with the following schedule:

(A) Fifty million dollars (\$50,000,000) shall be expended in accordance with Article 2 (commencing with Section 25433) of Chapter 5.3 of Division 15 of the Public Resources Code.

(B) Fifty million dollars (\$50,000,000) shall be expended for electric metering programs. Thirty-five million dollars (\$35,000,000) shall be used to provide time-of-use or real time meters for customers whose usage is greater than 200 kilowatt. Fifteen million dollars (\$15,000,000) shall be provided to the Public Utilities Commission to fund the program described in Section 739.11 of the Public Utilities Code, which may be used for the purchase and installation of meters, related equipment, and other associated costs.

(C) Fifty million dollars (\$50,000,000) shall be expended for the Small Business Energy Efficient Refrigeration Loan Program provided for in Section 25436 of the Public Resources Code.

(5) (A) The sum of fifty million dollars (\$50,000,000) shall be allocated to the State Energy Conservation Assistance Account created by Section 25416 of the Public Resources Code for expenditure by the

State Energy Resources Conservation and Development Commission to provide loans at not less than a 3 percent per annum interest rate, and grants, as determined by the commission, pursuant to Chapter 5.2 (commencing with Section 25410) of Division 15 of the Public Resources Code.

(B) In allocating the funds pursuant to this paragraph, the State Energy Resources Conservation and Development Commission shall give priority to applications for energy conservation projects or energy conservation measures that can be completed on or before September 1, 2001.

(6) The sum of four million five hundred thousand dollars (\$4,500,000) is hereby allocated to the State Energy Resources Conservation and Development Commission (Energy Commission) for expenditure to complete the Southeast Geysers Effluent Injection System (SGEIS), Phase 2 Project of the Basin 2000 Project in Lake County. This appropriation is to enable Basin 2000 to come online in December 2001, to produce an additional 10 megawatts (MW) of geothermal power, which it and the Northern California Power Agency, the sole partner with the Lake County Sanitation District, commit to selling to the state at their cost to help with California's electricity crisis.

(7) The sum of twenty-five million dollars (\$25,000,000) shall be allocated to the California Alternative Energy and Advanced Transportation Financing Authority for the purpose of implementing Section 26011.6 of the Public Resources Code.

(8) (A) The State Energy Resources Conservation and Development Commission shall expand programs to promote clean distributed generation technologies neither owned nor controlled by electrical corporations. Pursuant to subparagraph (B) and subdivision (e), the incentives that the commission shall develop pursuant to this section shall address existing barriers to the increased use of these technologies, including, but not limited to, incentives to help reduce the initial system purchase price, develop low-cost financing mechanisms, offset interconnection fees charged by electrical corporations, and streamline the utility interconnection process by reducing administrative delay.

(B) The sum of fifteen million dollars (\$15,000,000) shall be deposited in the Emerging Renewable Resources Account in the Renewable Resource Trust Fund established pursuant to Section 445 of the Public Utilities Code. Notwithstanding Section 13340 of the Government Code, the money deposited in the Emerging Renewable Resources Account by this subparagraph is hereby continuously appropriated to the State Energy Resources Conservation and Development Commission, without regard to fiscal year, for the purposes specified in subparagraph (C).

(C) The money allocated pursuant this paragraph and subdivision (e) may be expended by the commission only for the following purposes:

(i) Twenty-two million dollars (\$22,000,000) for rebates available for small distributed emerging technologies that are eligible for funding pursuant to subdivision (d) of Section 383.5 of the Public Utilities Code that have a peak generating capacity of 10 kilowatts or less. The commission shall determine the maximum rebate level for small systems to be awarded pursuant to this clause. Within the maximum rebate level, the commission may provide for different rebate levels, such as higher rebate levels for systems installed and operational within a specified timeframe, or for targeted end-use customers that need additional financial support, such as for public schools and state and local governmental facilities.

(ii) Eight million dollars (\$8,000,000) for rebates for small distributed emerging technologies that are eligible for funding pursuant to subdivision (d) of Section 383.5 of the Public Utilities Code that have a peak generating capacity of 10 kilowatts or less and that are located at a customer site receiving distribution service from a local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code. The commission shall determine the maximum rebate level for small systems to be awarded pursuant to this clause. Within the maximum rebate level, the commission may provide for different rebate levels, such as higher rebate levels for systems installed and operational within a specified timeframe, or for targeted end-use customers that need additional financial support, such as for public schools and state and local governmental facilities.

(iii) The commission shall ensure that projects eligible for rebates pursuant to clauses (i) and (ii) shall not also receive rebates from similar programs adopted by the Public Utilities Commission.

(D) Notwithstanding subdivision (d) of Section 383.5 of the Public Utilities Code, the commission may increase the maximum rebate levels for distributed emerging technologies eligible for funding under subdivision (d) of Section 383.5 of the Public Utilities Code that have a peak generating capacity greater than 10 kilowatts, if the commission determines that an increase is appropriate to further stimulate the installation of emerging renewable technologies in general or for targeted end-use customers that need additional financial support, such as public schools and state and local governmental facilities. The maximum incentive levels established by the commission may vary based on system size and type of end-use consumer.

(E) For purposes of this paragraph, "commission" means the State Energy Resources Conservation and Development Commission.

(9) In order to achieve a reduction in peak electricity demand, the sum of twenty-four million dollars (\$24,000,000) shall be allocated to the

Department of Corrections to install systems to retrofit generating units to improve the environmental performance of existing electrical generating units.

(e) The sum of fifteen million dollars (\$15,000,000) shall be transferred from the Renewable Resource Trust Fund to the Emerging Renewable Resources Account in the Renewable Resource Trust Fund established under Section 445 of the Public Utilities Code. The money allocated pursuant to this subdivision may be expended by the commission only for the purposes specified in subparagraph (C) of paragraph (8) of subdivision (d).

(f) Funds appropriated pursuant to paragraph (4) of subdivision (d) shall be expended pursuant to guidelines adopted by the Energy Resources Conservation and Development Commission. The guidelines shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall do all of the following:

(1) Establish cost effectiveness criteria for the programs funded. Within 10 days from the date of the adoption of criteria pursuant to this paragraph, the commission shall provide a copy of the criteria to the Chairperson of the Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(2) Establish design guidelines for energy efficiency for programs to be eligible for funding under Section 25433 of the Public Resources Code. These guidelines shall exceed those standards established in Part 6 of Title 24 of the California Code of Regulations.

(3) Allow reasonable flexibility to shift funds among program categories in order to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(4) Establish matching fund criteria where appropriate to ensure that entities eligible to receive funds appropriated pursuant to paragraph (4) of subdivision (d) pay an appropriate share of the cost of acquiring or installing measures to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(5) Establish mechanisms and criteria that ensure that funds expended pursuant to this subdivision through electric and gas corporations are not seized by the creditors of those corporations in the event of a bankruptcy. In implementing this paragraph, the commission shall adopt mechanisms such as the segregation of funds by the electric and gas corporations, the holding of those funds in trust until they are expended, and the reversion of funds to the General Fund in the event of a bankruptcy.

(6) Establish tracking and auditing procedures to ensure that funds are expended in a manner consistent with this section.

SEC. 14.5. (a) Any contracts entered into on or before September 1, 2001, pursuant to this act due to the energy crisis are exempt from the following requirements of the Government Code and the Public Contract Code:

(1) Services contracts and consulting services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(2) Architectural and engineering contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, and from Sections 6106.5 of the Public Contract Code.

(3) All contracts are exempt from Section 10295 of the Public Contract Code, relating to approval from the Department of General Services.

(4) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

(b) Grants may be awarded for projects or programs that include a group of related projects, or to a party who aggregates projects that directly benefit from the grant. The grants do not constitute the rendering of goods or services or a direct benefit to the agency making the grant. A party who aggregates projects may retain for administrative costs not more than $2\frac{1}{2}$ percent of the funds expended by the party.

(c) Approval of contracts and grants may be delegated to the agency executive director or an agency committee up to a maximum amount that is established by the respective commission or agency.

(d) Administrative costs for agencies participating in programs or projects pursuant to this act shall not exceed $2\frac{1}{2}$ percent of the amount allocated to the agency. For the purposes of this subdivision, "administrative costs" means personnel and overhead costs associated with the implementation of a measure or program. However, "administrative costs" does not include costs associated with marketing or evaluation of a measure of a program.

(e) Each participating agency receiving funds under this act shall file reports with the Joint Legislative Budget Committee, the chairs of the appropriations committees, and the Governor, as follows:

(1) An interim report by January 1, 2002.

(2) A final report by July 1, 2002.

(3) Annual reports for continuing programs, if the agency or program is not otherwise required to file annual reports by this act or any other provision of law.

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

In order to prevent rolling blackouts, and the shortage of electrical generating capacity in the state that endangers the health, welfare, and safety of the people of this state, it is necessary that this act take effect immediately.

CHAPTER 9

An act to amend Section 1731 of, and to add Section 1768 to, the Public Utilities Code, and to amend Sections 80106, 80130, 80132, and 80200 of, and to repeal Section 80114 of, the Water Code, and to amend and repeal Section 6 of Chapter 4 of the Statutes of 2001 of the First Extraordinary Session, relating to energy, and making an appropriation therefor.

[Approved by Governor May 10, 2001. Filed with
Secretary of State May 10, 2001.]

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

SECTION 1. Section 1731 of the Public Utilities Code is amended to read:

1731. (a) The commission shall set an effective date when issuing an order or decision. The commission may set the effective date of an order or decision prior to the date of issuance of the order or decision.

(b) After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property. For purposes of this article, “date of issuance” means the date

when the commission mails the order or decision to the parties to the action or proceeding.

(c) No cause of action arising out of any order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of 2001–02 First Extraordinary Session shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 10 days after the date of issuance of the order or decision. The commission shall issue its decision and order on rehearing within 20 days after the filing of that application.

SEC. 2. Section 1768 is added to the Public Utilities Code, to read: 1768. The following procedures shall apply to judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of 2001–02 First Extraordinary Session:

(a) Within 30 days after the commission issues its order or decision denying the application for a rehearing, or, if the application is granted, then within 30 days after the commission issues its decision on rehearing, any aggrieved party may petition for a writ of review in the California Supreme Court for the purpose of determining the lawfulness of the original order or decision or of the order or decision on rehearing. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified. No order of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of 2001–02 First Extraordinary Session shall be subject to review in the courts of appeal.

(b) The petition for review shall be served upon the executive director of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date when the commission mails the decision or grant to the parties to the action or proceeding.

(d) All actions and proceedings under this section and all actions or proceedings to which the commission or the people of the State of California are parties in which any question arises under this section, or under or concerning any order or decision of the commission under this section, shall be preferred over, and shall be heard and determined in preference to, all other civil business except election causes, irrespective of position on the calendar.

(e) The provisions of this article apply to actions under this section to the extent that those provisions are not in conflict with this section.

SEC. 3. Section 80106 of the Water Code is amended to read:

80106. (a) The department may contract with the related electrical corporation or its successor in the performance of related service, for the electrical corporation or its successor in the performance of related service, to transmit or provide for the transmission of, and distribute all power made available by the department, and, as agent of the department, provide billing, collection, and other related services on terms and conditions that reasonably compensate the electrical corporation for its services, and adequately secure payment to the department.

(b) At the request of the department, the commission shall order the related electrical corporation or its successor in the performance of related service, to transmit or provide for the transmission of, and distribute all power made available by the department, and, as agent of the department, provide billing, collection, and other related services on terms and conditions that reasonably compensate the electrical corporation for its services, and adequately secure payment to the department.

SEC. 4. Section 80114 of the Water Code, as added by Chapter 4 of the Statutes of 2001, is repealed.

SEC. 5. Section 80130 of the Water Code is amended to read:

80130. The department may incur indebtedness and issue bonds as evidence thereof, provided that bonds may not be issued in an amount the debt service on which, to the extent payable from the fund, is estimated by the department to exceed the amounts estimated to be available in the fund for their payment. The department may authorize the issuance of bonds (excluding notes issued in anticipation of the issuance of bonds and retired from the proceeds of those bonds) in an aggregate amount up to the greater of thirteen billion four hundred twenty-three million dollars (\$13,423,000,000) or the amount calculated by multiplying by a factor of four the annual revenues generated by the California Procurement Adjustment, as determined by the commission pursuant to Section 360.5 of the Public Utilities Code; provided, such aggregate amount shall not exceed thirteen billion four hundred twenty-three million dollars (\$13,423,000,000). Nothing in this section shall prohibit the department from issuing bonds prior to the effective date of this bill based upon the authorization granted to the department by the provisions of Chapter 4 of the Statutes of 2001–02 First Extraordinary Session. Refunding of bonds to obtain a lower interest rate shall not be included in the calculation of the aggregate amount. In addition, before the issuance of bonds in a public offering, the department shall establish a mechanism to ensure that the bonds will be sold at investment grade ratings and repaid on a timely basis from pledged revenues. This mechanism may include, but is not limited to,

an agreement between the department and the commission as described in Section 80110.

SEC. 6. Section 80132 of the Water Code is amended to read:

80132. (a) Bonds may be issued by the department upon authorization by written determination of the director of the department with the approval of the Director of Finance and the State Treasurer. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations of its written determination. The bonds shall be sold at such prices and in such manner, and on such terms and conditions, as shall be specified in such determination, and such determination may contain or authorize any other provision, condition, or limitation not inconsistent herewith and such provisions as may be deemed reasonable and proper for the security of the bondholders. Bonds may mature at such time or times, and bear interest at such rate or rates, which may be fixed or variable and be determined by reference to an index or such other method, as shall be specified in such determination. Neither the person executing the determination to issue bonds nor any person executing bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

(b) In the discretion of the department, any bonds may be secured by a trust agreement by and between the department and a corporate trustee, which may be any trust company or bank having trust powers within or without the state, or the State Treasurer. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as such trustee. The department may enter into such contracts or arrangements as it shall deem to be necessary or appropriate for the issuance and further security of the bonds.

(c) Bonds shall be legal investments for all trust funds, the funds of all insurance companies, banks both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and, for any funds that may be invested in county, school, or municipal bonds.

(d) Notwithstanding that bonds may be payable from a special fund, they shall be deemed to be negotiable instruments for all purposes.

(e) Any and all bonds, their transfer and the income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(f) Bonds shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the department, or a pledge of the faith and credit of the state or of any such political subdivision but shall be payable solely from the funds herein provided

for. All bonds shall contain a statement to the following effect: “Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond.” The issuance of bonds shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(g) The department may pledge or assign any revenues under any obligation entered into, and rights to receive the same, and moneys on deposit in the fund and income or revenue derived from the investment thereof, as security for the department’s obligations hereunder. It is the intention of the Legislature that any pledge of moneys, revenues, or property made by the department shall be valid and binding from the time when the pledge is made; that the moneys, revenues, or property so pledged and thereafter collected from retail end use customers, or paid directly or indirectly to or for the account of the department, is hereby made, and shall immediately be, subject to the lien of such pledge without any physical delivery thereof or further act; that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the department irrespective of whether such parties have notice thereof, and that no resolution or instrument by which such pledge or lien created pursuant to this subdivision is expressed, confirmed, or approved need be filed or recorded in order to perfect such pledge or lien. The provisions hereof shall in all respects govern the creation, perfection, priority, and enforcement of any lien created hereby or hereunder.

SEC. 7. Section 80200 of the Water Code is amended to read:

80200. (a) There is hereby established in the State Treasury the Department of Water Resources Electric Power Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal year, to the department, and shall be available for the purposes of this division. It is the intent of the Legislature that this fund be a continuation of the fund created in Chapter 3 of the Statutes of 2001 (SB 7 of the First 2001–02 Extraordinary Session).

(b) All revenues payable to the department under this division shall be deposited in the fund. Notwithstanding any other provision of law, interest accruing on money in the fund shall remain in the fund and shall be used for the purposes of this division. Payments from the fund may be made only for the purposes authorized by this division, including, but not limited to, payments for any of the following:

(1) The cost of electric power and transmission, scheduling, and other related expenses incurred by the department.

(2) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(3) Payment of any bonds or other contractual obligations authorized by this division.

(4) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001. That repayment shall be made as soon as practicable.

(c) Except as provided in subdivision (b) of Section 5 of the statute adding this section, the administrative costs of the department incurred in administering this division shall be provided in the annual Budget Act.

(d) Obligations authorized by this division shall be payable solely from the fund. Neither the full faith and credit nor the taxing power of the state are or may be pledged for any payment under any obligation authorized by this division.

(e) While any obligations of the department incurred under this division remain outstanding and not fully performed or discharged, the rights, powers, duties, and existence of the department and the commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of or parties to such obligations. The department may include this pledge and undertaking of the state in the department's obligations.

SEC. 8. Section 6 of Chapter 4 of the Statutes of 2001, First Extraordinary Session, is amended to read:

Sec. 6. (a) The Department of Finance may authorize the creation of deficiencies for the appropriation made by Section 5 of Chapter 4 of the Statutes of 2001, which added this section. No deficiency may be approved under this section any sooner than 10 days after written notification of the proposed deficiency is given to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations. After November 15, 2001, such deficiency shall be limited to amounts required for short-term cash-flow purposes of no more than five hundred million dollars (\$500,000,000) in the aggregate and shall be repaid from the Department of Water Resources Electric Power Fund within 180 days. The Director of Finance shall certify to the Joint Legislative Budget Committee and the Appropriations Committees as to the need for a short-term cash-flow loan not less than 10 days prior to the written notification.

(b) This section shall be repealed as of January 1, 2003, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends the date on which it is repealed.

SEC. 9. The provisions of Division 27 (commencing with Section 80000) of the Water Code, including amendments made thereto in this act, and the provisions of Section 360.5 of the Public Utilities Code, are severable. If any provision of Division 27 (commencing with Section 80000) of the Water Code, including amendments made thereto in this act, or the provisions of Section 360.5 of the Public Utilities Code or application thereof, are held to be invalid, such invalidity shall not affect other provisions of either Division 27 (commencing with Section 80000) of the Water Code or the provisions of Section 360.5.

SEC. 10. No revenues of the Department of Water Resources Electric Power Fund established pursuant to Section 80200 of the Water Code may be used to pay for any undercollected amount due to any electrical corporation or to any entity to which the amount has been assigned.

CHAPTER 10

An act to add Division 1.5 (commencing with Section 3300) to the Public Utilities Code, relating to electrical power, and making an appropriation therefor.

[Approved by Governor May 16, 2001. Filed with
Secretary of State May 16, 2001.]

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

SECTION 1. Division 1.5 (commencing with Section 3300) is added to the Public Utilities Code, to read:

DIVISION 1.5. CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

3300. The Legislature finds and declares that in order to furnish the citizens of California with reliable, affordable electrical power, to ensure sufficient power reserves, to assure stability and rationality in California's electricity market, to encourage energy efficiency and conservation as well as the use of renewable energy resources, and to protect the public health, welfare, and safety, the state needs to finance,

purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity and for renewable energy, energy efficiency, and conservation programs.

3301. This division shall be known and may be cited as the California Consumer Power and Conservation Financing Authority Act.

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Act" means the California Consumer Power and Conservation Financing Authority Act.

(b) "Authority" means the California Consumer Power and Conservation Financing Authority established pursuant to Section 3320 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law.

(c) "Board" means the Board of Directors of the California Consumer Power and Conservation Financing Authority.

(d) "Bond purchase agreement" means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this division.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(f) "Commission" means the Public Utilities Commission.

(g) "Cost," as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; financing charges; the costs of any environmental mitigation; the costs of issuance of bonds or other indebtedness; interest prior to, during, and for a period after, completion of the project, as determined by the authority; provisions for working capital; reserves for principal and

interest; reserves for reduction of costs for loans or other financial assistance; reserves for maintenance, extension, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial, appraisal, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project, enterprise, or program or incidental to the completion or financing of any project or program.

(h) “Electrical corporation” has the same meaning as that term is defined in Section 218.

(i) “Energy Commission” means the State Energy Resources Conservation and Development Commission.

(j) “Enterprise” means a revenue-producing improvement, building, system, plant, works, facilities, or undertaking used for or useful for the generation or production of electric energy for lighting, heating, and power for public or private uses. Enterprise includes, but is not limited to, all parts of the enterprise, all appurtenances to it, lands, easements, rights in land, water rights, contract rights, franchises, buildings, structures, improvements, equipment, and facilities appurtenant or relating to the enterprise.

(k) “Financial assistance” in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of authority bonds, the bonds of a participating party for their retention or for sale by the authority, or the issuance of authority bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the authority.

(l) “Fund” means the California Consumer Power and Conservation Financing Authority Fund.

(m) “Loan agreement” means a contractual agreement executed between the authority and a participating party that provides that the authority will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

(n) “Local publicly owned electric utility” has the same meaning as that term is defined in Section 9604.

(o) “Participating party” means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project or program in a manner prescribed by the authority.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application to the authority for financial assistance in a manner prescribed by the authority.

(p) "Program" means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

(q) "Project" means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the authority, and all activities and expenses necessary to initiate and complete those projects described in Article 5 (commencing with Section 3350) and Article 7 (commencing with Section 3368), of Chapter 3.

(r) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from an enterprise, or by the authority or a participating party from any other financing arrangement undertaken by the authority or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the authority or a participating party.

(s) "State" means the State of California.

3304. Any action taken pursuant to this division is exempt from the Administrative Procedure Act, as defined in Section 11370 of the Government Code.

CHAPTER 2. PURPOSE OF THE CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY

3310. The authority may only exercise its powers pursuant to Article 4 (commencing with Section 3340) of Chapter 3 for the following purposes:

(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities and other projects and enterprises, on its own or through agreements with public and private third parties or joint

ventures with public or private entities, or provide financial assistance for projects or programs by participating parties, to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, and to ensure a sufficient and reliable supply of electricity for California's consumers at just and reasonable rates.

(b) Finance programs, administered by the Energy Commission, the commission, and other approved participating parties for consumers and businesses to invest in cost-effective energy efficient appliances, renewable energy projects, and other programs that will reduce the demand for energy in California.

(c) Finance natural gas transportation and storage projects under Article 7 (commencing with Section 3368) of Chapter 3.

(d) Achieve an adequate energy reserve capacity in California within five years of the effective date of this division.

(e) Provide financing for owners of aged, inefficient, electric powerplants to perform necessary retrofits to improve the efficiency and environmental performances of those powerplants.

CHAPTER 3. THE CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY

Article 1. Creation of the Authority

3320. (a) There is hereby created in the state government the California Consumer Power and Conservation Financing Authority, which shall be responsible for administering this division.

(b) The authority shall implement the purposes of Chapter 2 (commencing with Section 3310), and to that end finance projects and programs in accordance with this division, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

Article 2. Board of Directors

3325. (a) The authority shall be governed by a five-member board of directors that shall consist of the following persons:

(1) Four individuals appointed by the Governor, subject to confirmation by the Senate. These four members shall have considerable experience in power generation, natural gas transportation or storage, energy conservation, financing, or ratepayer advocacy.

(2) The State Treasurer.

(b) (1) For the initial term, the appointed members shall serve staggered terms as follows:

(A) The member appointed first shall serve a term of four years.

- (B) The member appointed second shall serve a term of three years.
- (C) The member appointed third shall serve a term of two years.
- (D) The member appointed fourth shall serve a term of one year.
- (2) The second and any subsequent terms shall be for four years.
- (c) A quorum is necessary for any action to be taken by the board.

Three of the members shall constitute a quorum, and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) (1) The chairperson of the board shall be appointed by the Governor. This position shall be a full-time, paid position.

(2) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

3326. (a) The members of the board shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) of the Government Code, and all other applicable provisions of law.

(b) The board may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

3327. Meetings of the board shall be open to the public and shall be conducted 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).

3328. The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) applies to all records of the authority.

Article 3. Chief Executive Officer

3330. The chief executive officer shall manage and conduct the business and affairs of the authority and the fund subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this division. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the board.

Article 4. Powers of the Authority

3340. The authority is authorized and empowered to do any of the following:

- (a) Adopt an official seal.
- (b) Sue and be sued in its own name.
- (c) Employ or contract with officers and employees to administer the authority. The authority may contract for the services of a chief executive officer, who shall serve at the pleasure of the board. The chief executive officer, subject to the approval of the board, may contract for the services of other persons as are needed to effectuate the purposes of this division. These contracts shall not be subject to any otherwise applicable provisions of the Government Code and the Public Contract Code.
- (d) Exercise the power of eminent domain.
- (e) Adopt rules and regulations for the regulation of its affairs and the conduct of its business.
- (f) Do all things generally necessary or convenient to carry out its powers under, and the purposes of, this division.

3341. In connection with the purposes of this division, the authority may do any or all of the following:

- (a) Issue bonds, from time to time, as further provided in Chapter 5 (commencing with Section 3380.1), to pay all or part of the cost of any enterprise, project, or program, or to otherwise carry out the purposes of this division.
- (b) Enter into joint powers agreements with eligible public agencies pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- (c) Subject to any statutory or constitutional limitation on their use, do any of the following as may, in the determination of the authority, be necessary or convenient for the successful development, conduct, or financing of a project, program, or enterprise, or for carrying out the purposes of this division:
 - (1) Engage the services, including, without limitation, the services of private consultants; attorneys; financial professionals and advisors; engineers; architects; construction, land use and environmental experts; and accountants, to render professional and technical assistance and advice.
 - (2) Contract for engineering, architectural, accounting, or other services of appropriate state agencies.
 - (3) Pay the reasonable costs, including, without limitation, costs of consulting engineers, architects, accountants, and construction, land use, and environmental experts employed by the authority or any participating party. Except as otherwise provided in Section 3341.5, those costs shall be recovered from participating parties.

(d) Acquire, lease, take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state, as the authority determines to be necessary or convenient for an enterprise or the financing of a project, upon terms and conditions the authority considers to be reasonable.

(e) Make, receive, or serve as a conduit for the making of, or otherwise provide for, grants, contributions, guarantees, insurance, credit enhancements or liquidity facilities, or other financial enhancements to a participating party as financial assistance for a project or program. The sources may include bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grants and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account, or any other source of money, property, labor, or other things of value.

(f) Make loans to any participating party, either directly or by making a loan to a lending institution or other financial intermediary, in connection with the financing of a project or program in accordance with an agreement between the authority and a participating party, either as a sole lender or in participation with other lenders.

(g) Make loans to any participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the authority and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed prior to any agreement with the authority or expectation that the authority would provide financing, either as a sole lender or in participation with other lenders. The power generated by those projects shall be subject to the terms and conditions specified by the authority in the agreement and pursuant to Section 3351.

(h) Mortgage all or any portion of the authority's interest in a project or enterprise and the property on which any project or enterprise is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(i) Assign or pledge all or any portion of the authority's interest in assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a participating party to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds.

(j) Lease the project being financed to a participating party, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to

comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the authority; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the authority for the financing of the project, the authority may convey, any or all of the project to the lessee or lessees. The power generated by those projects shall be subject to the terms and conditions specified by the authority in the agreement and pursuant to Section 3351.

(k) (1) Issue, obtain, or aid in obtaining, from any department or agency of the United States, from other agencies of the state, or from any private company, any insurance or guarantee to or for, or any letter or line of credit regarding, the payment or repayment of interest or principal, or both, or any part thereof, on any bond, loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this division.

(2) Notwithstanding any other provision of this division, enter into any agreement, contract or other instrument regarding any insurance, guarantee, letter or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(l) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the authority's bonds or a participating party's obligations to the authority, including, but not limited to, bonds of a participating party purchased by the authority for retention or sale, with funds or moneys that are legally available and that are due or payable to the participating party by reason of any grant, allocation, apportionment, or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the participating party, the authority, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the participating party has not paid or is in default on its obligations to the authority, direct the Controller to withhold payment of those funds or moneys from the participating party over which it is or will be custodian and to pay the same to the authority or its assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt to the authority or its assignee, until the default has been cured and the amounts then due and unpaid have been paid to the authority or its assignee, or

until arrangements satisfactory to the authority have been made to cure the default.

(m) Purchase, with the proceeds of the authority's bonds, bonds issued by, or for the benefit of, any participating party in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by the authority, pledged or assigned by the authority, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority, and notwithstanding any other provision of law, may be bought by the authority at private sale.

(n) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.

3341.1. In connection with an enterprise, the authority may do any or all of the following:

(a) Acquire any enterprise by gift, purchase, or eminent domain as necessary to achieve the purposes of the authority pursuant to Sections 3310 and 3352.

(b) Construct or improve any enterprise. By gift, lease, purchase, eminent domain, or otherwise, it may acquire any real or personal property, for an enterprise, except that no property of a state public body may be acquired without its consent. The authority may sell, lease, exchange, transfer, assign, or otherwise dispose of any real or personal property or any interest in such property. It may lay out, open, extend, widen, straighten, establish, or change the grade of any real property or public rights-of-way necessary or convenient for any enterprise.

(c) Operate, maintain, repair, or manage all or any part of any enterprise, including the leasing for commercial purposes of surplus space or other space that is not economic to use for such enterprise.

(d) Adopt reasonable rules or regulations for the conduct of the enterprise.

(e) Prescribe, revise, and collect charges for the services, facilities, or energy furnished by the enterprise. The charges shall be established and adjusted so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the authority financing such enterprise as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the authority.

(f) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

3341.2. In connection with a project, the authority may do any or all of the following:

(a) Determine the location and character of any project to be financed under this division.

(b) Acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate any project to be financed under this division.

(c) Contract with any participating party for the construction of a project by such participating party.

(d) Enter into leases and agreements, as lessor or lessee, with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and facilities of any kind or character.

(e) Establish, revise, charge and collect rates, rents, fees and charges for a project. The rates, rents, fees, and charges shall be established and adjusted in respect of the aggregate rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the authority financing such project as the same shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing such bonds, and (3) pay operating and administrative costs of the authority.

(f) Enter into contracts of sale with any participating party covering any project financed by the authority.

(g) As an alternative to leasing or selling a project to a participating party, finance the acquisition, construction, or installation of a project by means of a loan to the participating party.

(h) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

3341.5. In connection with the purposes of this division, the authority shall charge and equitably apportion among participating parties or other public or private entities the authority's administrative costs and expenses, including operating and financing-related costs incurred in the exercise of the powers and duties conferred by this division, except to the extent that those costs are related to one of the authority's own enterprises or projects, in which case costs shall be included in the cost of generating that electricity as provided in Section 3351.

3342. The fiscal powers granted to the authority by this division may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature or as otherwise

stated in this division. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

3343. No member of the board or any person executing bonds of the authority pursuant to this division shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

3344. All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under this division.

3345. The authority's operating budget shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the authority's operating budget shall include the costs of personnel, administration, and overhead.

3346. The authority shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this division.

3347. The Bureau of State Audits shall perform an evaluation of the effectiveness of the authority's efforts in achieving its purposes as described in Section 3310. The evaluation shall include recommendations as to whether there is a continued need for the authority beyond January 1, 2007. The evaluation shall be submitted to the Governor and the Legislature on or before January 1, 2005.

Article 5. Generation Facilities

3350. In evaluating the the eligibility for financing of additional generation facilities, the authority shall utilize the Energy Commission's and the Independent System Operator's, or their successor's, information relating to the need for additional generating facilities and their forecasts of electric supply and demand for the state.

3351. (a) All generation-related projects and enterprises financed pursuant to this division shall provide electricity to the consumers of this state at the cost of generating that electricity, including the costs of financing those projects or enterprises. To the extent that electricity is not needed in the state, or that it is financially advantageous to California

consumers, the electricity may be sold outside the state at just and reasonable rates.

(b) If a participating party is an electrical corporation, the commission shall determine the cost of generating electricity and to which entities the electricity is sold.

(c) If a participating party is a local publicly owned electric utility seeking to provide electricity to consumers in its service territory, the governing board of that utility shall determine the cost of generating electricity and to which entities the electricity is sold.

(d) If neither subdivision (b) nor subdivision (c) applies, the authority shall determine the cost of generating electricity and to which entities the electricity is sold, consistent with subdivision (a).

3352. In addition to the other powers provided in this division, the activities of the authority under this article are intended to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, consistent with achieving reasonable energy capacity reserves within five years of the effective date of this division.

3353. The authority shall have the authority to receive and act on applications for financial assistance from owners of existing powerplants whose owners or operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

3354. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

3355. The authority may not invest in any nuclear facilities or develop additional hydroelectric facilities without first receiving specific statutory authorization to do so on a project-by-project basis.

3356. (a) If the authority determines under Section 3350 that additional electric generation supply is required to meet the purposes of this division, the authority may undertake the following activities to ensure that the authority, or any participating party, is able to build, own, and operate generation facilities as part of a least cost electric supply policy:

(1) Identify suitable sites for the construction of generation facilities, taking into account fuel supply, interconnection, community, and environmental factors.

(2) Secure rights to the sites identified, including, but not limited to, fee simple acquisition, leaseholds, or options.

(3) Conduct any studies that may be necessary to construct and operate generation facilities at the site, including, but not limited to, environmental, engineering, or feasibility studies.

(4) Conduct, in coordination with the Energy Commission, all applicable public and community involvement processes.

(5) Apply for permits, licenses, or other local, state, or federal approvals, including, but not limited to, compliance with the applicable procedures of the Energy Commission.

(b) The authority may request proposals from qualified participating parties to purchase, lease, or otherwise acquire sites for the purpose of developing generation facilities that will provide the lowest cost power to consumers over the life of the facilities, consistent with Section 3351.

(c) The authority shall comply with all applicable air quality laws and regulations and the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15 (commencing with Section 25000) of the Public Resources Code).

Article 6. Renewable Energy and Conservation

3365. The authority may provide loans, utilizing up to one billion dollars (\$1,000,000,000) of the bond authority, under terms and conditions approved by the authority, to any participating party, which shall use that loan to make loans available to California consumers and businesses for all of the following purposes:

(a) The purchase of consumer appliances and home improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(b) The purchase or lease of business equipment and facility improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

(c) Any other electric or natural gas energy conservation program or any program for the use of renewable energy resources, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable.

3366. As a condition of receipt of a loan pursuant to Section 3365, a participating party shall be required to conduct a comprehensive marketing program that makes consumers aware of the availability of these financial assistance programs, and to provide appropriate security for repayment of the loan, including, without limitation, a pledge to the authority of consumer and business loan repayments collected through utility bills, as applicable and a certification that the duration of a loan will not exceed the useful life of a purchase.

3367. The authority shall require that any equipment or improvement financed by a loan made pursuant to this article shall be certified as having been installed or completed.

3367.5. The authority may require that a participating party utilize a consumer protection plan for screening qualified contractors who serve consumers under this article.

Article 7. Natural Gas

3368. (a) The commission, in consultation with the Energy Commission, shall prepare and submit to the authority and to the Legislature, within 90 days of the effective date of the act adding this section, a report on the present, planned, and required future capacity of the state's natural gas transportation and storage system to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

(b) The authority may provide financing for natural gas transportation or storage projects recommended to it by the commission. In recommending a project to the authority, the commission shall ensure that the project is in the public interest.

(c) Nothing in this section prevents the commission from acting on its own authority to direct gas corporations within its jurisdiction to construct, or facilitate the construction or operation, by the owners or operators of pipelines not within the jurisdiction of the commission, of, natural gas transportation and storage facilities as the commission determines to be needed to provide adequate, seasonally reliable amounts of competitively priced natural gas to residential, commercial, and industrial customers, including, but not limited to, electric generating plants.

Article 8. Energy Resource Investment Plan

3369. (a) Within 180 days of the effective date of this division, the authority, in consultation with the Energy Commission and the Independent System Operator, shall develop an Energy Resource Investment Plan and submit that plan to the Governor and the Joint Legislative Budget Committee and the chairs of the policy committees with jurisdiction over energy policy in the State of California.

(b) The Energy Resource Investment Plan shall take into account California's anticipated energy service needs for both electricity and natural gas over the next decade. The plan shall address issues regarding adequacy of supply, storage, reliability of service, grid congestion, and environmental quality. In developing the investment plan, the authority

shall compare the costs of various energy resources, including a comparison of the costs and benefits of demand reduction strategies with the costs and benefits of additional generation supply. The plan shall acknowledge the potential volatility of fossil fuel prices and the value of resources that avoid that price risk.

(c) The plan shall outline a strategy for cost-effective energy resource investments, using the financing powers provided to the authority by this division. The plan may recommend changes to the specific expenditure authority granted in this division in order to carry out the investment strategy contained in the plan.

(d) The plan shall be developed with input from interested parties at scheduled public hearings of the authority. The authority should adopt the plan by majority vote of the board at a public meeting. The authority shall update the plan on a regular basis as determined by the authority.

(e) All investments made by the authority under this division shall be consistent with the strategy outlined in the Energy Resource Investment Plan. Nothing in this section shall preclude the authority from exercising its powers prior to the adoption of the initial Energy Resource Investment Plan.

(f) The authority shall be the agency responsible for ensuring that the investment strategy outlined in the Energy Resource Investment Plan is implemented. To that end, the authority may, on its own or through a partnership with a participating party, make those investments necessary to ensure that the plan is implemented.

Article 9. Agencies Relation to Other State Energy Oversight

3369.5. Nothing in this division shall be construed to obviate the need to review the roles, functions, and duties of other state energy oversight agencies and, where appropriate, change or consolidate those roles, functions, and duties. To achieve that efficiency, the Governor may propose to the Legislature a Governmental Reorganization Plan, pursuant to Section 8523 of the Government Code and Section 6 of Article V of the Constitution.

CHAPTER 4. CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY FUND

3370. (a) There is hereby created in the State Treasury the California Consumer Power and Conservation Financing Authority Fund for expenditure by the authority for the purpose of implementing the objectives and provisions of this division. For the purposes of subdivision (e), or as necessary or convenient to the accomplishment of

any other purpose of the authority, the authority may establish within the fund additional and separate accounts and subaccounts.

(b) The assets of the fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

(c) Except as provided under Section 3345, all moneys in the fund that are not General Fund moneys are continuously appropriated to the authority and may be used for any reasonable costs which may be incurred by the authority in the exercise of its powers under this division.

(d) The fund, on behalf of the authority, may borrow or receive moneys from the authority, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the board.

(e) The authority may pledge any or all of the moneys in the fund (including in any account or subaccount) as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division.

(f) The authority, may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for the authority's current needs, including proceeds from the sale of any bonds, in any securities permitted by law as the authority shall designate. The authority also may direct the 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 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. 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 of the Government Code, excepting the Surplus Money Investment Fund.

CHAPTER 5. BONDS

3380.1. For the purposes provided in this division, the authority is authorized to incur indebtedness and to issue securities of any kind or class, at public or private sale by the Treasurer, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues. The authority may issue bonds for the purposes of this division in an amount not to exceed five billion dollars (\$5,000,000,000), exclusive of any refundings.

3380.2. In connection with the issuance of bonds, in addition to the powers otherwise provided in this division, the authority may do all of the following:

(a) Issue, from time to time, bonds payable from and secured by a pledge of all or any part of the revenues in order to finance the activities authorized by this division, including, without limitation, an enterprise or multiple enterprises, a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, and to sell those bonds at public or private sale by the Treasurer, in the form and on those terms and conditions as the Treasurer, as agent for sale, shall approve.

(b) Pledge all or any part of the revenues to secure bonds and any repayment or reimbursement obligations of the authority to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment or debt service on any bond.

(c) Employ and compensate bond counsel, financial consultants, underwriters, and other advisers determined necessary and appointed by the Treasurer in connection with the issuance and sale of any bond.

(d) Issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer, as agent for sale, shall approve.

(e) Perform all acts that relate to the function and purpose of the authority under this division, whether or not specifically designated in this chapter.

3381. Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. The bonds issued under this division are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state, including, without limitation, local agencies, schools, and pension funds, for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

3382. The authority is authorized to obtain loans from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code. These loans shall be subject to the terms negotiated with the Pooled Money Investment Board, including, but not limited to, a pledge of authority bond proceeds or revenues.

3383. Bonds issued under this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any political subdivision, other than the authority, but shall

be payable solely from the funds herein provided therefor. All bonds issued under this division shall contain on the face thereof a statement to the following effect: “Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond.” The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

CHAPTER 6. TERMINATION PROVISIONS

3384. The authority may not finance or approve any new program, enterprise, or project on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

CHAPTER 11

An act to add Section 739.4 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 2001. Filed with
Secretary of State May 22, 2001.]

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

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

(1) Commencing in the summer of 2000 and continuing to the present, wholesale prices for electricity have skyrocketed in California.

(2) Since November 2000, natural gas prices have increased significantly.

(3) The extraordinarily high costs of electricity and natural gas are threatening the economic well-being of the state.

(4) Low-income and senior households, who spend a disproportionate portion of their income on energy costs, have been particularly affected.

(5) The energy burden borne by low-income and senior customers is greater than the energy burden of most other households in California.

California low-income households spend approximately 10 percent of their incomes on energy bills, compared to the average energy burden of 2.9 percent for a median-income household.

(6) Under the California Alternate Rates for Energy program (CARE), low-income customers are eligible to receive gas and electric services at a discounted rate.

(b) It is therefore the intent of the Legislature to protect low-income and senior customers from the impacts of skyrocketing energy rates and to enact legislation to increase the CARE penetration rate, to look at other means to expand the program to all eligible low-income and low-income senior customers, and to encourage energy conservation by all customer classes.

SEC. 2. Section 739.4 is added to the Public Utilities Code, to read:

739.4. (a) Any natural gas customer who enrolls in the CARE program after the effective date of this section, but before October 1, 2001, shall receive the same one-time bill credit based on the amount of each gas corporation's average CARE customer discount applied for each month in October 2000 to March 2001, inclusive. The credit does not apply to a customer who initiates service with a gas corporation after the effective date of this section, and who has no prior history of service with the gas corporation. CARE program funds shall be used for the purpose of providing these credits. The commission shall adjust CARE program income requirements annually to reflect the increased cost-of-living due to inflation.

(b) The commission shall require all electrical and gas utilities through which CARE program rates are available to do all of the following, in multilingual formats to the extent printed and recorded information is provided, to facilitate better penetration rates for the CARE program and to protect low-income and senior households from unwarranted disconnection of necessary electric and gas services:

(1) Provide an outgoing message on all calls, where the customer is seeking to establish service or is put on hold, to customer service lines that briefly describes the CARE program in standard language approved by the commission, and that provides a toll-free phone number for customers to call to subscribe to the program or for further information.

(2) Provide information to customers about the CARE program and facilitate subscription to CARE, on all calls in which customers are making payment arrangements, on all collections calls, and on all calls for reconnection of service.

(3) (A) Provide information about the CARE program and other assistance programs, and attempt to qualify customers for CARE, and provide information about individual payment arrangements that allow customers to pay the amounts due over a reasonable period of time, not to exceed 12 months, and attempt to enroll customers in a payment

arrangement program, before effecting any disconnection of service for nonpayment or inability to pay energy bills in full.

(B) (i) Offer individual payment arrangements to customers so that the customer is able to pay amounts due over a reasonable period of time, not to exceed 12 months.

(ii) Prohibit the disconnection of customers that have made, and are in compliance with, payment arrangements offered by an electric or gas utility pursuant to this subparagraph.

(C) Prohibit the disconnection of a delinquent residential customer for amounts due in which the electric or gas utility receives a commitment pledge, letter of intent, purchase order, or other notification that a provider of energy assistance is forwarding payment sufficient to prevent disconnection.

(D) (i) Advise residential customers facing disconnection or who contact the utility to make payment arrangements of the levelizing payment program that allows them to pay a monthly average bill based on 12 months usage.

(ii) Advise residential customers about enrollment in the levelizing payment program in conjunction with completion of payment arrangements, payment under terms of subparagraph (B), or at the customer's request absent those arrangements.

(E) Nothing in this paragraph is intended to reduce the revenues of any utility extending payment arrangements subject to the terms of the paragraph.

(4) Provide information on customer bills, presented in a conspicuous manner on a front facing page, that indicates that a customer may be eligible for the CARE program. This notice shall be provided quarterly on customer bills.

(c) The commission shall conduct targeted outreach about the program using census block data to effectively target low-income and senior households throughout the state.

(d) CARE program funds shall be used for the purposes of paragraph (3) of subdivision (b) and outreach pursuant to subdivision (c). The commission's costs for outreach pursuant to subdivision (c) may not exceed five hundred thousand dollars (\$500,000) above the amount that the commission currently expends on similar activities related to the CARE program. Energy corporations may recover all reasonable costs from the CARE program funds of implementing this section.

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

changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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 that low-income and senior customers be protected from the extraordinarily high electricity and gas prices as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 12

An act to add Section 42301.15 to, to add Chapter 7 (commencing with Section 39910) to Part 2 of Division 26 of, and to add and repeal Section 42314.3 of, the Health and Safety Code, and to amend Sections 25514, 25521, 25523, 25531, and 25552 of, and to add and repeal Sections 25519.5 and 25550.5 of, the Public Resources Code, and to add Article 3.5 (commencing with Section 353.1) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, relating to the energy emergency, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 22, 2001. Filed with
Secretary of State May 22, 2001.]

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

SECTION 1. Chapter 7 (commencing with Section 39910) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 7. EXPEDITED AIR QUALITY IMPROVEMENT PROGRAM FOR ELECTRICAL GENERATION

39910. The Legislature finds and declares that it is in the interests of the people of the State of California to ensure that the state board establish a unified, coordinated, and expedited process for districts to retrofit electrical generating facilities in a manner that protects public health and the environment and that complies fully with applicable federal and state statutes and regulations.

39915. On or before July 1, 2002, the state board, in consultation with air quality management districts, air pollution control districts, and the Independent System Operator, shall establish a schedule for the retrofit of electric generation facilities pursuant to retrofit criteria and

procedures established under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.) or this division. The schedule shall require completion of any mandated retrofits by December 31, 2004, or such later date as the state board, in consultation with the Independent System Operator, air pollution control districts, air quality management districts, and the owners and operators of electrical generating facilities determines is necessary to maintain electric system reliability. Nothing in this section is intended to require the retrofit of a generation facility that could not be required to be retrofitted by an air quality management district or air pollution control district under the law in effect on the effective date of the act adding this chapter during the 2001-02 First Extraordinary Session. The state board shall suspend the deadline for the completion of a retrofit of an electrical generation unit scheduled pursuant to this section if it determines all of the following:

(a) The owner of the generation unit proposes to replace or repower the generation unit in a manner that complies with all applicable laws and regulations.

(b) The owner has filed the necessary applications for permits for such replacement or repower prior to the suspension of the deadline for the completion of the required retrofits.

(c) The owner is diligently proceeding with the replacement or repower of the unit and the state board determines that the replacement or repower will be completed.

39920. On or before July 1, 2001, the state board shall implement a program for tracking the emission reduction credits made available by the program required under Section 39915, and for facilitating the banking, trading, and purchasing of those credits in order to expedite the construction of new, clean generating facilities in the state. The state board shall establish criteria for the development of a state emission reduction credits bank, which shall ensure that a specified percentage of emission reduction credits created pursuant to section 39915 be contributed to the bank for the purpose of making emission reduction credits available for new, clean generation capacity.

SEC. 2. Section 42301.15 is added to the Health and Safety Code, to read:

42301.15. Each district shall adopt an expedited program for the permitting of standby electrical generation facilities, distributed generation facilities, geothermal facilities, including wells, and, where applicable, natural gas transmission facilities, that ensures those facilities will be operated in a manner that protects public health and air quality. Upon request by a district, the Independent System Operator and the Public Utilities Commission shall provide any information necessary, as determined by the district, to implement this section.

SEC. 3. Section 42314.3 is added to the Health and Safety Code, to read:

42314.3. (a) The Legislature finds and declares all of the following:

(1) There is an urgent need to facilitate the siting of the cleanest and least polluting new electrical generation and repowering, as defined in subdivision (i) of Section 25550.5 of the Public Resources Code in the state in order to displace older and more polluting electrical generation.

(2) Certain areas of the state currently lack sufficient air emissions offsets needed to site clean new generation and repowering, as defined in paragraph (1).

(3) The purpose of this section is to provide a mechanism to provide needed offsets for clean new electrical generation and repowering, as defined in paragraph (1), for new facilities constructed during the period of energy emergency currently being experienced in the state.

(4) Nothing in this section is intended, in any manner, to limit or abridge the responsibilities and obligations of any party under the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), as that act existed on January 1, 2001, including, but not limited to, the requirement that emissions offsets be enforceable as established pursuant to Section 173(a)(1) of that act (42 U.S.C. Sec. 7503(a)(1)(A)), and that offsets be obtained by the time a source is to commence operation pursuant to Section 173 (a)(1)(A) of that act (42 U.S.C. Sec. 7503(a)(1)(A)).

(b) Each district shall identify and make available to the public emission reduction credits that may be purchased by applicants for electrical generation facilities and used to offset emissions from those facilities pursuant to this section. Each district shall adopt, in a public hearing, standards for the implementation of this section, including, but not limited to, quantification protocols, emissions baselines, antibracksliding provisions, and monitoring, recordkeeping, reporting, and testing requirements, to establish that the offsets made available pursuant to this section are quantifiable, verifiable, enforceable, real, and surplus.

(c) To the extent permitted under the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), including, but not limited to, those sections of the act referenced under paragraph (4) of subdivision (a), in lieu of obtaining air emission offsets, an applicant for a permit for an electrical generating facility may pay an emissions offset fee to a district for expenditure by the district to purchase offsets for that facility. The applicant may post a bond in an amount sufficient to cover the cost of the required emissions offsets, provided that bond shall only be issued by an admitted surety for the benefit of, and held by, the district.

(d) Prior to commencement of operation, the owner or operator of the facility shall obtain any required emissions offsets or a portion of the required emissions offsets and shall forfeit a proportionate amount of the

offset fee or bond to the district in an amount determined by the district to be sufficient to acquire and hold that portion of the required emissions offsets not obtained by the applicant. Any forfeited funds shall be used by the district to purchase offsets for the facility in the applicable air basin prior to the commencement of operation of the facility.

(e) In expending emissions offset fees, a district shall give first priority to obtaining offsets from stationary sources that have emissions comparable to those emissions that the electrical generation facility will emit and shall meet all standards regarding proximity of such offsets established under state and federal law, and district rules and regulations. To the extent stationary source offsets are not available, the district shall expend offset fees to obtain emissions reductions from other sources of a type and in an amount equivalent to those offsets which would otherwise be required to be obtained by the facility in order to operate. However, a district may expend funds for offsets from mobile or areawide sources only after making a public determination that sufficient reductions from stationary sources cannot be secured prior to commencement of operation of the project.

(f) Prior to accepting the payment of an emissions offset fee pursuant to this section, and not less than 11 months prior to commencement of the electrical generation facility, the governing board or the air pollution control officer of a district shall hold a duly noticed public hearing that meets all of the following conditions:

(1) Notice of the hearing shall be published at least 30 days prior to the date of the hearing in all newspapers of general circulation in the area to be affected by the electrical generation facility's emissions.

(2) At the hearing, the applicant demonstrates, to the satisfaction of the governing board or the air pollution control officer, that emissions offsets are not available to the applicant in the district, or that the offsets are available only at a cost which, for all practical purposes, make the offsets unavailable to the applicant.

(3) At the hearing, the district identifies those offsets that it will purchase for use by the applicant and finds that those offsets comply with the requirements of this section and with all applicable requirements of state and federal law and district rules and regulations, including, but not limited to, requirements that those offsets are quantifiable, verifiable, enforceable, real, permanent, and surplus and that they are, measured from a verified air emissions baseline.

(4) At the hearing, the district establishes the amount of emissions offset fees or the portion of the bond to be paid by the applicant. The amount shall be sufficient to obtain the equivalent amount of offsets as would otherwise be required to be obtained by the applicant, and may include an additional amount not to exceed 3 percent to cover the district's administrative costs.

(g) Not less than six months after the hearing conducted pursuant to subdivision (f), the district shall publish and make available to the public and the applicant the types and quantities of offsets that it has secured.

(h) This section may be utilized by a thermal powerplant subject to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code. However, to the extent this section is utilized by a thermal powerplant subject to that chapter, the thermal powerplant shall be required to demonstrate compliance with this section in a manner consistent with the requirements of Section 25523 of the Public Resources Code.

(i) A district may, by regulation, suspend or limit the applicability of this section for any period of time or with respect to a particular electrical generation facility if the district determines that it would interfere with attainment or maintenance of state or federal ambient air quality standards, or to the extent it determines that adequate offsets are available at a reasonable price. District rules governing notice required for adoption or amendment of regulations shall apply to this subdivision.

(j) (1) 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.

(2) However, except as otherwise provided in this section, the repeal of this section may not affect any electrical generation facility for which offsets have been obtained pursuant to this section prior to the date of the repeal.

SEC. 4. Section 25514 of the Public Resources Code is amended to read:

25514. After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after the filing of the notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:

(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, except as provided in Section 25514.5.

(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designated in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the findings and conclusions.

(f) Findings and conclusions as to whether increased property taxes due to the construction of the project are sufficient to support needed local improvements and public services required to serve the project.

SEC. 5. Section 25519.5 is added to the Public Resources Code, to read:

25519.5. (a) Each local government agency reviewing an application pursuant to subdivision (f) of Section 25519 shall file a preliminary list of issues regarding the design, operation, location, and financial impacts of the facility with the commission no later than 45 days after the date an application for certification is deemed filed for purposes of Section 25522 and shall provide a final list of those issues with the commission no later than 100 days after the application for certification is deemed filed. Nothing in this section may be construed to limit the right of a city, county, or city and county, to comment on an application filed pursuant to this chapter or to act as an intervenor or other party to a proceeding established pursuant to this chapter.

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.

SEC. 6. Section 25521 of the Public Resources Code is amended to read:

25521. No earlier than 90 nor later than 240 days after the date of the filing of an application, the commission shall commence a public hearing or hearings on the application in Sacramento, San Francisco,

Los Angeles, or San Diego, whichever city is nearest the proposed site. Additionally, the commission may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located. The commission hearings shall provide a reasonable opportunity for the public and all parties to the proceeding to comment upon the application and the commission staff assessment and shall provide the equivalent opportunity for comment as required pursuant to Division 13 (commencing with Section 21000). Consistent with the requirements of this section, the commission shall have the discretion to determine whether or not a hearing is to be conducted in a manner that requires formal examination of witnesses or that uses other similar adjudicatory procedures.

SEC. 7. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance

with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission may not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies, prior to the licensing of the project by the commission, that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant within the time required by the district's rules or unless the applicable air pollution control district or air quality management district certifies that the applicant requires emissions offsets to be obtained prior to the commencement of operation consistent with Section 42314.3 of the Health and Safety Code and prior to commencement of the operation of the proposed facility. The commission shall require as a condition of certification that the applicant obtain any required emission offsets within the time required by the applicable district rules, consistent with any applicable federal and state laws and regulations, and prior to the commencement of the operation of the proposed facility.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(g) In the case of a facility, other than a resource recovery facility subject to subdivision (f), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

(h) A discussion of any public benefits from the project including, but not limited to, economic benefits, environmental benefits, and electricity reliability benefits.

SEC. 8. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

SEC. 9. Section 25550.5 is added to the Public Resources Code, to read:

25550.5. (a) Notwithstanding subdivision (a) of Section 25522 and Section 25540.6, the commission shall establish a process to issue its final decision on an application for certification for the repowering of a thermal powerplant and related facilities within 180 days after the filing

of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and that the project will comply with all applicable standards, ordinances, regulations, and statutes. For purposes of this section, filing has the same meaning as in Section 25522.

(b) The repowering of a thermal powerplant and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed repowering of a thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed repowering of a thermal powerplant and related facilities.

(c) After an application is filed under this section, the commission shall not be required to issue a final decision on the application within 180 days if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, regulation, or statute. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, any local, regional, or state agency that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide its final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control board, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) The repowering of a thermal powerplant and related facilities that demonstrate superior environmental or efficiency performance improvement shall receive first priority in review by the commission.

(f) With respect to the repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has contracted with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall

be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(i) For purposes of this section, “repowering” means a project for the modification of an existing generation unit of a thermal powerplant that meets all of the following criteria:

(1) The project complies with all applicable requirements of federal, state, and local laws.

(2) The project is located on the site of, and within the existing boundaries of, an existing thermal facility.

(3) The project will not require significant additional rights-of-way for electrical or fuel-related transmission facilities.

(4) The project will result in significant and substantial increases in the efficiency of the production of electricity, including, but not limited to, reducing the heat rate, reducing the use of natural gas, reducing the use and discharge of water, and reducing air pollutants emitted by the project, as measured on a per kilowatthour basis.

(j) 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. 10. Section 25552 of the Public Resources Code is amended to read:

25552. (a) The commission shall implement a procedure, consistent with Division 13 (commencing with Section 21000) and with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), for an expedited decision on simple cycle thermal powerplants and related facilities that can be put into service on or before December 31, 2002, including a procedure for considering amendments to a pending application if the amendments specify a change from a combined cycle thermal powerplant and related facilities to a simple cycle thermal powerplant and related facilities.

(b) The procedure shall include all of the following:

(1) A requirement that, within 15 days of receiving the application or amendment to a pending application, the commission shall determine whether the application is complete.

(2) A requirement that, within 25 days of determining that an application is complete, the commission, or a committee of the commission, shall determine whether the application qualifies for an expedited decision pursuant to this section. If an application qualifies for an expedited decision pursuant to this section, the commission shall provide the notice required by Section 21092.

(c) The commission shall issue its final decision on an application, including an amendment to a pending application, within four months from the date on which it deems the application or amendment complete, or at any later time mutually agreed upon by the commission and the applicant, provided that the thermal powerplant and related facilities remain likely to be in service on or before December 31, 2002.

(d) The commission shall issue a decision granting a license to a simple cycle thermal powerplant and related facilities pursuant to this section if the commission finds all of the following:

(1) The thermal powerplant is not a major stationary source or a modification to a major stationary source, as defined by the federal Clean Air Act, and will be equipped with best available control technology, in consultation with the appropriate air pollution control district or air quality management district and the State Air Resources Board.

(2) The thermal powerplant and related facilities will not have a significant adverse effect on the environment or the electrical system as a result of construction or operation.

(3) With respect to a project for a thermal powerplant and related facilities reviewed under the process established by this section, the applicant has contracted with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the thermal powerplant.

(e) In order to qualify for the procedure established by this section, an application shall satisfy the requirements of Section 25523, and include a description of the proposed conditions of certification that will do all of the following:

(1) Assure that the thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(2) Assure protection of public health and safety.

(3) Result in compliance with all applicable federal, state, and local laws, ordinances, and standards.

(4) A reasonable demonstration that the thermal powerplant and related facilities, if licensed on the expedited schedule provided by this section, will be in service before December 31, 2002.

(5) A binding and enforceable agreement with the commission, that demonstrates either of the following:

(A) That the thermal powerplant will cease to operate and the permit will terminate within three years.

(B) That the thermal powerplant will be recertified, modified, replaced, or removed within a period of three years with a cogeneration or combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.

(6) Where applicable, that the thermal powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air pollution control district or air quality management district based upon the actual emissions from the thermal powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, to mitigate the emissions from the plant. To the extent consistent with federal law and regulation, any offsets required pursuant to this paragraph shall be based upon a 1:1 ratio, unless, after consultation with the applicable air pollution control district or air quality management district, the commission finds that a different ratio should be required.

(7) Nothing in this section shall affect the ability of an applicant that receives approval to install simple cycle thermal powerplants and related facilities as an amendment to a pending application to proceed with the original application for a combined cycle thermal powerplant or related facilities.

(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date except that the binding commitments in paragraph (5) of subdivision (e) shall remain in effect after that date.

SEC. 11. Article 3.5 (commencing with Section 353.1) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 3.5. Distributed Energy Resources

353.1. As used in this article, "distributed energy resources" means any electric generation technology that meets all of the following criteria:

(a) Commences initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than September 1, 2002.

(b) Is located within a single facility.

(c) Is five megawatts or smaller in aggregate capacity.

(d) Serves onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

(e) Is powered by any fuel other than diesel.

(f) Complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purpose of this article, distributed energy resources shall meet emissions levels equivalent to nine parts per million oxides of nitrogen, or the equivalent standard taking into account efficiency as determined by the State Air Resources Board, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower, except for distributed generation units that displace and therefore significantly reduce emissions from natural gas flares or reinjection compressors, as determined by the State Air Resources Control Board. These units shall comply with the applicable best available control technology as determined by the air pollution control district or air quality management district in which they are located.

353.3. (a) The commission shall require each electrical corporation under the operational control of the Independent System Operator as of January 1, 2001, to modify its tariffs so that all customers installing new distributed energy resources in accordance with the criteria described in Section 353.1 are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources.

(b) To qualify for the tariffs described in subdivision (a), each customer with distributed energy resources that meet the criteria of Section 353.1 shall participate in a real-time metering and pricing program, when these programs become available, in which rates for any energy purchased from the electrical corporation reflect the actual cost to the electrical corporation of energy it purchases at the time it is consumed by the customer. Prior to the time these programs become available, the customer shall participate in a time-of-use pricing tariff. On or before December 31, 2001, the commission shall adopt a real time pricing tariff for the purpose of this section.

(c) Except as specified in Section 353.7, customers may not be subject to the application of additional rates or tariffs solely because of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

353.5. Each electrical corporation, as part of its distribution planning process, shall consider nonutility owned distributed energy resources as a possible alternative to investments in its distribution

system in order to ensure reliable electric service at the lowest possible cost.

353.7. Notwithstanding Section 353.3, nothing in this article may result in any exemption from reasonable interconnection charges, lead to any reduction in contributions by each customer class to public purpose programs funded under Section 399.8, or relieve any customer of any obligation determined by the commission to result from participation in the purchase of power through the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

353.9. In establishing the rates required under this article, the commission shall create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.

353.11. A local publicly owned electric utility, as defined in subdivision (d) of Section 9604, or a local publicly owned utility otherwise providing electrical service, shall review at the earliest practicable date its rates, tariffs, and rules to identify barriers to and determine the appropriate balance of costs and benefits of distributed energy resources in order to facilitate the installation of these resources in the interests of their customer-owners and the state, and shall hold at least one noticed public meeting to solicit public comment on the review and any recommended changes. However, notwithstanding any other provision of this article, such an entity has the sole authority to undertake such a review and to make modifications to its rates, tariffs, and rules as the governing body of that utility determines to be necessary.

353.13. (a) The commission shall require each electrical corporation to establish new tariffs on or before January 1, 2003, for customers using distributed energy resources, including, but not limited to, those which do not meet all of the criteria described in Section 353.1. However, after January 1, 2003, distributed energy resources that meet all of the criteria described in Section 353.1 shall continue to be subject only to those tariffs in existence pursuant to Section 353.3, until June 1, 2011, except that installations that do not operate in a combined heat and power application will be subject to those tariffs in existence pursuant to Section 353.3 only until June 1, 2006. Those tariffs required pursuant to this section shall ensure that all net distribution costs incurred to serve each customer class, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, are fully recovered only from that class. The commission shall require each electrical corporation, in establishing

those rates, to ensure that customers with similar load profiles within a customer class will, to the extent practicable, be subject to the same utility rates, regardless of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218. Customers with dedicated facilities shall remain responsible for their obligations regarding payment for those facilities.

(b) The commission shall prepare and submit to the Legislature, on or before June 1, 2002, a report describing its proposed methodology for determining the new rates and the process by which it will establish those rates.

353.15. (a) In order to evaluate the efficiency, emissions, and reliability of distributed energy resources with a capacity greater than 10 kilowatts, customers that install those resources pursuant to this article shall report to the commission, on an annual basis, all of the following information, as recorded on a monthly basis:

(1) Heat rate for the resource.

(2) Total kilowatthours produced in the peak and off-peak periods, as determined by the ISO.

(3) Emissions data for the resource, as required by the State Air Resources Board or the appropriate air quality management district or air pollution control district.

(b) The commission shall release the information submitted pursuant to subdivision (a) in a manner that does not identify the individual user of the distributed energy resource.

(c) The commission, in consultation with the State Air Resources Board, air quality management districts, air pollution control districts, and the State Energy Resources Conservation and Development Commission, shall evaluate the information submitted pursuant to subdivision (a) and, within two years of the effective date of the act adding this article, prepare and submit to the Governor and the Legislature a report recommending any changes to this article it determines necessary based upon that information.

SEC. 12. (a) Notwithstanding Section 625 of the Public Utilities Code, from the effective date of this section to June 1, 2002, inclusive, a gas corporation public utility may exercise the power of eminent domain, including, but not limited to, any authority provided by Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure, to condemn any property for the purpose of competing with another entity in the offering of natural gas and services related to natural gas.

(b) The Public Utilities Commission may not make a finding on a petition or complaint pending on the effective date of this section that was filed pursuant to Section 625 of the Public Utilities Code by a gas corporation public utility to condemn any property for the purpose of

competing with another entity in the offering of natural gas and services related to natural gas. The Public Utilities Commission shall dismiss the petition or complaint.

(c) This section shall become inoperative on June 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. The sum of not more than three million two hundred fifty thousand dollars (\$3,250,000) is hereby appropriated from the General Fund to the State Energy Resources Conservation and Development Commission for expenditure, until January 1, 2005, for the following purposes:

(a) Three million dollars (\$3,000,000) to provide assistance to cities and counties to expedite the review and analysis of applications for electrical generating facilities which will assist the state in meeting its urgent energy needs and ensuring system reliability. The moneys available pursuant to this subdivision shall not be used to supplant funding available to a city or county through the exercise of its existing fee authority.

(b) Not more than two hundred fifty thousand dollars (\$250,000) to contract or conduct a study, in consultation with the Orange County Sanitation District, of the remedies to mitigate effects of shoreline water contamination located in the vicinity of the City of Huntington Beach to be conducted concurrently with the Huntington Beach Shoreline Contamination Study conducted by the Orange County Sanitation District.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order to address the rapid, unforeseen shortage of electric supply and energy available in the state, which endangers the health, welfare, and safety of the people of this state, it is necessary for this act to take effect immediately.

CHAPTER 13

An act to amend Section 4241 of the Government Code, and to add and repeal Sections 42317 and 42359.6 of the Health and Safety Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 2001. Filed with
Secretary of State May 25, 2001.]

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

SECTION 1. Section 4241 of the Government Code is amended to read:

4241. As used in this chapter, and as used in Section 5 of the act adding this chapter, “state energy project” means equipment, load management techniques, and other measures or services that reduce energy consumption and provide for more efficient use of energy in state buildings or facilities, or buildings or facilities owned or operated by any public postsecondary educational institution.

SEC. 2. Section 42317 is added to the Health and Safety Code, to read:

42317. (a) Notwithstanding any permit conditions to the contrary, and subject to the conditions established pursuant to subdivision (b), a district shall authorize a permitted stationary source to operate its emergency electrical power generating equipment during any period of an involuntary power service interruption, solely to the extent it is necessary for one or both of the following purposes:

(1) To prevent damage to its equipment.

(2) To complete the processing of products that would be irreparably damaged or destroyed as a direct result of an involuntary electrical power service interruption.

(b) Any authorization granted by a district pursuant to subdivision (a) shall be subject to all of the following conditions:

(1) The emergency electrical power generating equipment may not be used to begin a new process or to process additional products.

(2) The emergency electrical power generating equipment may be used only for the period of time the condition described under paragraph (1) or (2) of subdivision (a) exists.

(3) The stationary source shall continue to operate any pollution control equipment associated with the source and with its emergency electrical power generating equipment during the period of time the condition described under paragraph (1) or (2) of subdivision (a) exists.

(4) To the extent the stationary sources' emergency electrical power generating equipment uses diesel generation, low-sulfur diesel fuel or a fuel that has been verified by the State Air Resources Board to materially reduce emissions of oxides of nitrogen (NO_x) and particulate matter (PM) shall be used to the extent that it is available.

(5) The stationary source, and its emergency electrical power generating equipment, is otherwise in compliance with all applicable district rules and regulations and all applicable regulations adopted by the state board, including, but not limited to, requirements for the use of the best available control technology, or hourly limits of operation established by the district.

(6) The stationary source provides all information required in the district emergency authorization form.

(c) (1) Each district shall, not later than 14 days from the effective date of this section, create a simple emergency authorization form of not more than two pages in length in which an applicant shall certify in writing its agreement to comply with subdivision (b) and give the reasons why it believes the operation of its emergency electrical power generating equipment during any period of an involuntary power service interruption will meet the conditions of subdivision (a).

(2) A completed emergency authorization form for authorization under subdivision (a) shall be approved or denied by the district not later than five working days from the date of its submittal, to the extent not inconsistent with other state or federal notice requirements. If authorization is denied, the specific grounds for its denial shall be clearly stated.

(d) An authorization under subdivision (a) may only be approved for a stationary source enrolled on or before January 1, 2001, in an interruptible program contract, as described in Section 743.1 of the Public Utilities Code.

(e) For purposes of this section, "involuntary electrical power service interruption" means a power interruption or curtailment of a permitted stationary source pursuant to an interruptible program contract, as described in Section 743.1 of the Public Utilities Code.

(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 42359.6 is added to the Health and Safety Code, to read:

42359.6. (a) For purposes of Section 42359.5, a breakdown condition includes the startup or shutdown of a facility, enrolled on or before January 1, 2001, in an interruptible program contract, as described in Section 743.1 of the Public Utilities Code, that has complied with applicable startup and shutdown procedures, or a failure to operate air emission control equipment, if either condition is caused by a power interruption or curtailment initiated by the Independent System Operator, a public utility electrical corporation, or a local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code and feasible measures that could have been reasonably implemented to minimize emissions during startup and shutdown were implemented.

(b) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 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.

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 address the rapid, unforeseen shortage of electric power and energy available in the state and rapid and substantial increases in wholesale energy costs and retail energy rates, that endanger the health, welfare, and safety of the people of this state, and to encourage programs

that encourage curtailments at the earliest possible time, it is necessary for this act to take effect immediately.

CONCURRENT RESOLUTIONS

2001–02

FIRST EXTRAORDINARY SESSION

2001 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Joint Resolution No. 1—Relative to natural gas.

[Filed with Secretary of State May 11, 2001.]

WHEREAS, Expenditures for natural gas in California will have increased from \$8 billion in 1999 to \$13 billion in 2000, and to an estimated \$32 billion in 2001; and

WHEREAS, These increases have had and will have devastating impacts on residential, agricultural, and business natural gas users and on the cost of generating electricity, and will have a devastating impact on the California economy; and

WHEREAS, In 1938, Congress enacted the National Gas Act to regulate the sale of natural gas because it “considered that the natural gas industry was heavily concentrated and that monopolistic forces were distorting the market price for natural gas”; and

WHEREAS, Congress’ “primary aim ... was to protect consumers against exploitation at the hands of natural gas companies” and to ensure consumers “access to an adequate supply of gas at a reasonable price”; and

WHEREAS, By 1989, Congress had fully deregulated the sale of natural gas at the wellhead; and

WHEREAS, Interstate natural gas pipelines are still regulated under the federal Natural Gas Act, with maximum pipeline transportation rates being established by the Federal Energy Regulatory Commission (FERC); and

WHEREAS, By 1992, FERC (not Congress) deregulated natural gas sales by wholesalers who use interstate natural gas pipelines, but FERC said that it would entertain complaints about market misuse; and

WHEREAS, In 2000, FERC removed price controls on the sale of natural gas pipeline capacity by marketers, retained price controls on the sale of natural gas pipeline capacity by owners of pipelines, and said that FERC would entertain complaints about market misuse; and

WHEREAS, Wholesalers of natural gas must pay the pipeline transportation price that is less than or equal to the maximum pipeline transportation rate established by FERC, but may charge more than the FERC-established maximum pipeline transportation rate; and

WHEREAS, California entities have filed complaints with FERC about market misuse; and

WHEREAS, Natural gas deregulation has worked in every state except California, where spot natural gas costs at the California border have skyrocketed, reaching \$62 per MMBtu for natural gas in December 2000, while the wellhead price plus the maximum pipeline transportation rates were about \$5.50; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the President of the United States, the Congress of the United States, and the Federal Energy Regulatory Commission are urged to do all of the following:

(a) Reestablish cost-based regulation of natural gas sales at the California border by marketers or owners of pipelines.

(b) Prohibit withholding of natural gas capacity on pipelines entering California ; and be it further

Resolved, That the Legislature urges the Chairman of the Federal Energy Regulatory Commission to immediately place the issue of cost-based caps of natural gas on the commission agenda and allow it to be voted on; and be it further

Resolved, That the Legislature urges the President of the United States to meet with a bipartisan coalition of California legislators to discuss the energy crisis facing the western states that threatens the national economy.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 3—Relative to final adjournment of the 2001–02 First Extraordinary Session of the Legislature.

[Filed with Secretary of State May 16, 2001.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the 2001–02 First Extraordinary Session of the Legislature shall adjourn sine die at midnight on May 14, 2001.

2001 – 02

SECOND EXTRAORDINARY SESSION

EXTRAORDINARY SESSION SPECIAL RULES OF EFFECTIVENESS

Except for a statute calling an election, a statute providing for a tax levy or an appropriation calling for the usual current expenses of the state, and an urgency statute, all of which take effect immediately following enactment, a statute adopted during an extraordinary session takes effect on the 91st day following the adjournment of the special session (see subdivision (c) of Section 8 of Article IV of the California Constitution). The effective date of a joint resolution is the date it is filed with the Secretary of State.

The 2001–02 Second Extraordinary Session convened in the Assembly on May 14, 2001, and in the Senate on May 17, 2001. This Extraordinary Session had not been adjourned prior to publication of these statutes; please refer to the succeeding year's Statutes and Amendments to the Codes.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA



PROCLAMATION
by the
Governor of the State of California

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; and

WHEREAS, on January 3, 2001, I convened the 2001-02 First Extraordinary Session of the Legislature to deal with a broad range of energy issues, including the availability and supply of electrical power and natural gas; and

WHEREAS, it is necessary for the Legislature to adjourn the First Extraordinary Session; and

WHEREAS, it is necessary to reconvene the Legislature in extraordinary session to continue deliberations on critical energy issues;

NOW, THEREFORE, I, GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by Article IV, Section 3(b) of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California, on the 14th day of May, 2001, at a time appointed by each house of the Legislature of said day for the following purpose and to legislate upon the following subjects:

1. To consider and act upon legislation affecting the availability, supply, consumption, and use of energy in California.
2. To consider and act upon legislation (a) affecting the operation, maintenance, and finances of facilities owned or controlled directly or indirectly by persons, corporations or public entities that provide electricity and natural gas to California residents and businesses, and (b) relating to the assets, liabilities, and financial viability of investor-owned utilities.
3. To consider and act upon legislation affecting the interaction between wholesale and retail markets for energy supply, capacity and reliability.
4. To consider and act upon legislation relating to the roles, functions, and duties of state energy agencies.
5. To consider and act upon legislation protecting the health and safety of California residents with respect to facilities that generate and deliver energy service in California.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 14th day of May 2001.

Gray Davis

Governor of California

ATTEST:

Bill Jones

Secretary of State



STATUTES OF CALIFORNIA

2001–02

SECOND EXTRAORDINARY SESSION

2001 CHAPTERS

CHAPTER 1

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

[Approved by Governor August 8, 2001. Filed with
Secretary of State August 9, 2001.]

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

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

(a) The State of California is in the midst of a severe energy crisis and increased production of natural gas reserves in the state will help to alleviate this crisis.

(b) There may be untapped natural gas reserves in the Long Beach tidelands, but contractors operating under existing oil operating contracts with the City of Long Beach need financial incentives to explore for and develop those reserves.

(c) There are currently no financial incentives provided for by existing laws governing oil operations in the Long Beach tidelands.

SEC. 2. (a) The State Lands Commission may, on behalf of the state, negotiate contracts or agreements with the City of Long Beach, and any contractor operating under an oil operating contract with the City of Long Beach, that provide financial incentives for the contractor to explore for, and develop, additional gas reserves in the Long Beach tidelands, as defined in subdivision (a) of Section 1 of Chapter 138 of the Statutes of 1964, First Extraordinary Session. Neither this act nor any contract or agreement entered into pursuant to this section shall supersede or amend, in any respect, the existing contractors' agreements for Tracts 1 and 2 of the Long Beach Unit, the Agreement for Implementation of an Optimized Waterflood Program for the Long Beach Unit, the Long Beach Unit Agreement, the Long Beach Unit Operating Agreement, the Long Beach Harbor Tidelands Parcel and Parcel "A" Oil Contract, the Fault Block Unit Agreements, and Unit Operating Agreements, or any other existing contract covering the drilling, developing, extracting, processing, taking, or removal of oil, gas, and other hydrocarbons from the Long Beach tidelands.

(b) Any contract or agreement entered into pursuant to subdivision (a) shall contain a provision specifying that the contractor and the City of Long Beach, either directly or indirectly, shall jointly bear the costs incurred in connection with the exploration and development of additional gas reserves in the Long Beach tidelands. The composition of those additional gas reserves to be developed in the Long Beach tidelands shall be prescribed in any contract or agreement entered into by the State Lands Commission, the City of Long Beach, and the

contractor. The state shall not bear any of the cost incurred in connection with the exploration and development of those additional gas reserves, nor shall it pay any abandonment costs related to that gas exploration or development. The state shall receive an expense-free royalty, in cash or in kind, that is payable monthly on all gas produced as a result of this new exploration and development. The City of Long Beach and any contractor entering into a contract or agreement for the exploration or development of gas reserves with the City of Long Beach may determine, in the course of negotiations, how the exploration and development costs will be apportioned between the parties to the contract or agreement, and how the gas produced from this exploration and development will be allocated between or among each party, provided that the City of Long Beach shall have the right, but not the obligation, to purchase all gas produced at a negotiated price that is no greater than the reasonable wholesale commodity market price of dry gas sold for residential consumption in the Los Angeles Basin. The state shall receive its royalty in cash so long as the City of Long Beach is exercising its right to purchase all the gas, but may elect to receive its royalty either in cash or in kind whenever the City of Long Beach is not exercising this right. All oil produced in connection with the development and production of these additional gas reserves shall be allocated and accounted for as normal oil production under existing and applicable contracts or agreements governing oil production in the Long Beach tidelands.

(c) The provisions of Chapter 29 of the Statutes of 1956, First Extraordinary Session, and of Chapter 138 of the Statutes of 1964, First Extraordinary Session, relating to the allocation and disposition of Long Beach tidelands dry gas, shall remain in effect and continue to be fully applicable to all dry gas produced from the Long Beach tidelands that is not a product of the exploration and development undertaken pursuant to a contract or agreement authorized by subdivision (a).

(d) All net revenue derived by the City of Long Beach from the disposition of its allocated share of the additional gas reserves that are a product of the exploration and development undertaken pursuant to a contract or agreement authorized by subdivision (a) shall be used by the City of Long Beach for the purposes of, and in the manner set forth in, Section 6 of Chapter 138 of the Statutes of 1964, First Extraordinary Session.

SEC. 3. 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. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the residents of the state to benefit from the potential for more natural gas as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 2

An act to amend Section 2772 of the Public Utilities Code, relating to electricity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 11, 2001. Filed with
Secretary of State August 13, 2001.]

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

SECTION 1. Section 2772 of the Public Utilities Code is amended to read:

2772. In establishing the priorities pursuant to Section 2771, the commission shall include, but not be limited to, a consideration of all the following:

(a) A determination of the customers and uses of electricity and gas, in descending order of priority, which provide the most important public benefits and serve the greatest public need.

(b) A determination of the customers and uses of electricity and gas which are not included under subdivision (a).

(c) A determination of the economic, social, and other effects of a temporary discontinuance in electrical or gas service to the customers or for the uses determined in accordance with subdivision (a) or (b).

(d) A determination of the potential effect of extreme temperatures on the health and safety of residential customers. In making this determination, the commission shall do all of the following:

(1) Consult with appropriate medical experts and review appropriate literature and research.

(2) Consider whether providing priority to customers experiencing extreme temperatures would result in increased outage frequency and duration for remaining customers and its effect on the health and safety of those remaining customers.

(3) To the extent the commission determines it is in the public interest to provide priority to customers that experience extreme temperatures, it shall provide that priority only when temperatures are extreme.

(4) Consider whether alternative measures are appropriate, including, but not limited to, reducing the duration of the outage or imposing the outage earlier or later in the day.

(e) Any curtailment or allocation rules, orders, or regulations issued by any agency of the federal government.

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 the Public Utilities Commission to consider in the establishment of use priorities the potential effect of extreme temperatures on residential customers at the earliest possible time, thereby ensuring their health and safety, it is necessary that this act take effect immediately.

CHAPTER 3

An act to add Section 2774.5 to the Public Utilities Code, relating to electric power, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 5, 2001. Filed with
Secretary of State September 5, 2001.]

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

SECTION 1. Section 2774.5 is added to the Public Utilities Code, to read:

2774.5. An electrical corporation or local publicly owned electric utility, as defined in subdivision (d) of Section 9604, shall immediately notify the Commissioner of the California Highway Patrol and the sheriff and any affected chief of police of the specific area within their respective law enforcement jurisdictions that will sustain a planned loss of power as soon as the planned loss becomes known as to when and where that power loss will occur. The notification shall include common geographical boundaries, grid or block numbers of the effected area, and the next anticipated power loss area designated by the electrical corporation or public entity during rotating blackouts.

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 protect the public from increased criminal activity during the current energy shortage, it is necessary for this act to take effect immediately.

CHAPTER 4

An act to amend Section 1103 of the Food and Agricultural Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2001. Filed with
Secretary of State October 1, 2001.]

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

SECTION 1. Section 1103 of the Food and Agricultural Code is amended to read:

1103. For the purposes of this part, the following definitions apply:

(a) “Agency” means the Trade and Commerce Agency.

(b) “Air district” means an air pollution control district or an air quality management district established or continued in existence pursuant to Part 3 (commencing with Section 40000) of the Health and Safety Code.

(c) “Facility” means any California site that meets both of the following criteria:

(1) As of July 1, 2000, converted and continues to convert qualified agricultural biomass to energy, or that operated prior to July 1, 2000, converting qualified agricultural biomass to energy, was closed for a period of time but maintained all applicable air quality permits during that closure, and is ready to reopen on or before June 30, 2001, and, in both cases, the conversion results in lower oxides of nitrogen (NO_x) emissions than would otherwise be produced if burned in the open field during the ozone season, as determined by the air district in which the site operates.

(2) Does not produce electricity for sale to a public utility pursuant to a contract with that public utility, or, if the site does produce electricity for sale to a public utility pursuant to a contract with that public utility, the site does not qualify for fixed energy prices established prior to June 30, 2000, under the terms of that contract at the time the application for the grant is made.

(d) “Grant” means an award of funds by the agency to an air district that shall, in turn, grant incentive payments to a facility after deducting the air district’s administrative fee as provided in Section 1104.

(e) "Incentive payment" means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars (\$10) for each ton of qualified agricultural biomass received for conversion to energy.

(f) "Qualified agricultural biomass" means agricultural residues that historically have been open field burned in the jurisdiction of the air district from which the agricultural residues are derived, as determined by the air district, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

SEC. 2. Notwithstanding the allocation of funds set forth in subparagraph (A) of paragraph (5) of subdivision (b) of Section 5 of Chapter 7 of the First Extraordinary Session, as amended by Chapter 111 of the Statutes of 2001, the State Energy Resources Conservation and Development Commission shall transfer three million five hundred thousand dollars (\$3,500,000) of the total funds allocated pursuant to that subparagraph to the California Technology, Trade, and Commerce Agency pursuant to an interagency agreement within 30 days of the effective date of the act adding this section for the sole and specific purpose of supplementing the funding and furthering the intent of the Agricultural Biomass-to-Energy Incentive Grant Program as established in Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code.

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

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

In order to make grants to encourage the development of additional facilities that convert agricultural biomass to energy under the

Agricultural Biomass-to-Energy Incentive Grant Program as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 5

An act to amend Section 17073 of, and to add Section 17208.1 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 2001. Filed with
Secretary of State October 1, 2001.]

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

SECTION 1. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. (a) Section 63 of the Internal Revenue Code, relating to taxable income defined, shall apply, except as otherwise provided.

(b) The deduction allowed by Section 17208.1, relating to interest on loans or financed indebtedness obtained from a publicly owned utility for the purchase and installation of energy efficient products or equipment, shall not be treated as a miscellaneous itemized deduction under Section 67(a) of the Internal Revenue Code, relating to the 2-percent floor on miscellaneous deductions.

(c) For individuals who do not itemize deductions, the standard deduction computed in accordance with Section 17073.5 shall be allowed as a deduction in computing taxable income.

SEC. 2. Section 17208.1 is added to the Revenue and Taxation Code, to read:

17208.1. (a) There shall be allowed as a deduction the amount of interest paid or incurred by a taxpayer during the taxable year on any loan or financed indebtedness obtained from a publicly owned utility company for the purpose of acquiring and installing any energy efficient product or equipment to a qualified residence located in this state.

(b) For purposes of this section:

(1) “Energy efficient product or equipment” means any product or equipment certified by a publicly owned utility company that will improve the energy efficiency, as defined by paragraph (2) of subdivision (a) of Section 399.4 of the Public Utilities Code, of a qualified residence on which the product or equipment is installed or applied.

(2) “Energy efficient product or equipment” shall include, but not be limited to, heating, ventilation, air-conditioning, lighting, solar,

advanced metering of energy usage, windows, insulation, zone heating products, and weatherization systems.

(3) "Zone heating products" mean gas room heaters certified by the California Energy Commission or wood fueled stoves certified by the federal Environmental Protection Agency.

(4) "Publicly owned utility company" has the same meaning as set forth in subdivision (d) of Section 9604 of the Public Utilities Code.

(5) "Qualified residence" has the same meaning as set forth in Section 163(h)(4)(A) of the Internal Revenue Code.

(6) "Publicly owned utility company loan or financial indebtedness" means any amount borrowed from a publicly owned utility company to finance the acquisition and installation of energy efficient products and equipment installed or applied to a qualified residence located in this state.

(c) Any interest amount that is allowed as a deduction pursuant to this section (and the application of Section 17072) may not otherwise be allowed as a deduction for purposes of this part.

(d) The publicly owned utility company shall issue a federal income tax Form 1098, or similar form, for the purpose of notifying the taxpayer of his or her eligibility for the deduction allowed by this section.

(e) The deduction allowed by this section shall be in lieu of any credit allowed by this part for interest paid or incurred by the taxpayer in connection with the purchase of energy efficient equipment.

(f) The Legislature finds and declares that many taxpayers may be unaware that they may deduct interest paid or incurred pursuant to this section. The Legislature further finds that it is important to inform taxpayers of this deduction. Therefore, it is the intent of the Legislature to encourage all publicly owned utility companies to inform their customers in writing that they may deduct interest paid or incurred pursuant to this section. It is the further intent of the Legislature to encourage all publicly owned utility companies that are unable to offer customer financing to acquire or install energy efficient products and equipment to inform their customers in writing that interest on a home equity or home improvement loan used to purchase energy efficient products and equipment may also be tax deductible.

(g) It is the intent of the Legislature to inquire with the Internal Revenue Service as to whether the loan program administered by the Sacramento Municipal Utility District qualifies for an interest deduction in compliance with the Internal Revenue Code and the regulations thereunder.

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 6

An act to add Section 25403.8 to the Public Resources Code, and to amend Section 21800 of the Vehicle Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2001. Filed with
Secretary of State October 1, 2001.]

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

SECTION 1. Section 25403.8 is added to the Public Resources Code, to read:

25403.8. (a) The commission shall develop and implement a program to provide battery backup power for those official traffic control signals, operated by a city, county, or city and county, that the commission, in consultation with cities, counties, or cities and counties, determines to be high priority traffic control signals.

(b) Based on traffic factors considered by cities, counties, or cities and counties, including, but not limited to, traffic volume, number of accidents, and presence of children, the commission shall determine a priority schedule for the installation of battery backup power for traffic control systems. The commission shall give priority to a city, county, or city and county that did not receive a grant from the State of California for the installation of light-emitting diode traffic control signals.

(c) The commission shall also develop or adopt the necessary technical criteria as to wiring, circuitry, and recharging units for traffic control signals. Only light-emitting diodes (LED) traffic control signals are eligible for battery backup power for the full operation of the traffic control signal or a flashing red mode. A city, county, or city and county may apply for a matching grant for battery backup power for traffic control signals retrofitted with light-emitting diodes.

(d) Based on the criteria described in subdivision (c), the commission shall provide matching grants to cities, counties, and cities and counties for backup battery systems described in this section in accordance with the priority schedule established by the commission pursuant to subdivision (b). The commission shall provide 70 percent of the funds for a battery backup system, and the city, county, or city and county shall provide 30 percent.

(e) If a city, county, or city and county has installed a backup battery system for LED traffic control signals between January 1, 2001, and the effective date of the act adding this section, the commission may reimburse the city, county, or city and county for up to 30 percent of the cost incurred for the backup battery system installation. However, the

commission may not spend more than one million five hundred thousand dollars (\$1,500,000) for reimbursements pursuant to this subdivision.

SEC. 2. Section 21800 of the Vehicle Code is amended to read:

21800. (a) The driver of a vehicle approaching an intersection shall yield the right-of-way to any vehicle which has entered the intersection from a different highway.

(b) (1) When two vehicles enter an intersection from different highways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right, except that the driver of any vehicle on a terminating highway shall yield the right-of-way to any vehicle on the intersecting continuing highway.

(2) For the purposes of this section, "terminating highway" means a highway which intersects, but does not continue beyond the intersection, with another highway which does continue beyond the intersection.

(c) When two vehicles enter an intersection from different highways at the same time and the intersection is controlled from all directions by stop signs, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right.

(d) (1) The driver of any vehicle approaching an intersection which has official traffic control signals that are inoperative shall stop at the intersection, and may proceed with caution when it is safe to do so. This subparagraph shall apply to traffic control signals that become inoperative because of battery failure.

(2) When two vehicles enter an intersection from different highways at the same time, and the official traffic control signals for the intersection are inoperative, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right, except that the driver of any vehicle on a terminating highway shall yield the right-of-way to any vehicle on the intersecting continuing highway.

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

(1) Any intersection controlled by an official traffic control signal or yield right-of-way sign.

(2) Any intersection controlled by stop signs from less than all directions.

(3) When vehicles are approaching each other from opposite directions and the driver of one of the vehicles intends to make, or is making, a left turn.

SEC. 3. (a) For the purpose of providing matching grants for backup battery systems for traffic control signals retrofitted with light-emitting diodes pursuant to Section 25403.8 of the Public Resources Code, the sum of ten million dollars (\$10,000,000) shall be reallocated to the State Energy Resources Conservation and

Development Commission from funds appropriated in Chapter 8 of the Statutes of the 2001–02 First Extraordinary Session for the purposes of Article 4 (commencing with Section 15350) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code. The State Energy Resources Conservation and Development Commission may not expend more than 5 percent of the amount available for expenditure pursuant to this subdivision for administrative costs in carrying out the grant program.

(b) On or before June 1, 2004, the State Energy Resources Conservation and Development Commission shall submit a report to the Governor and the Legislature on the expenditures made pursuant to subdivision (a), including grant awards and program activities.

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

Due to the shortage of electric generation capacity to meet the needs of the people of the state and in order to limit the impact of that shortage on the public health, safety, and welfare due to the nonoperation of traffic control signal lights during anticipated rotating blackouts, it is necessary that this act take effect immediately.

CHAPTER 7

An act to add Section 368.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 28, 2001. Filed with
Secretary of State October 1, 2001.]

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

SECTION 1. It is the intent of the Legislature, in enacting the act adding this section, to not usurp the authority of the Public Utilities Commission to set rates for electrical corporations.

SEC. 2. Section 368.5 is added to the Public Utilities Code, to read:

368.5. (a) Notwithstanding any other provision of law, upon the termination of the 10-percent rate reduction for residential and small commercial customers set forth in subdivision (a) of Section 368, the commission may not subject those residential and small commercial customers to any rate increases or future rate obligations solely as a result of the termination of the 10-percent rate reduction.

(b) The provisions of subdivision (a) do not affect the authority of the commission to raise rates for reasons other than the termination of the 10-percent rate reduction set forth in subdivision (a) of Section 368.

(c) Nothing in this section shall further extend the authority to impose fixed transition amounts, as defined in subdivision (d) of Section 840, or further authorize or extend rate reduction bonds, as defined in subdivision (e) of Section 840.

SEC. 3. To the extent the provisions of this act conflict with any other provision of the Public Utilities Code, the provisions of this act shall prevail.

CHAPTER 8

An act to amend, repeal, and add Sections 60022 and 60023 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 2001. Filed with
Secretary of State October 3, 2001.]

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

SECTION 1. Section 60022 of the Revenue and Taxation Code is amended to read:

60022. (a) "Diesel fuel" means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle. However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

(b) "Diesel fuel" does not include kerosene.

(c) "Diesel fuel" does not include the water in a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive that causes the water droplets to remain suspended within the diesel fuel, provided the diesel fuel emulsion meets standards set by the California Air Resources Board.

(d) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 2. Section 60022 of the Revenue and Taxation Code is amended to read:

60022. (a) “Diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle. However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

(b) “Diesel fuel” does not include gasoline, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, or alcohol.

(c) “Diesel fuel” does not include the water in a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive that causes the water droplets to remain suspended within the diesel fuel, provided the diesel fuel emulsion meets standards set by the California Air Resources Board.

(d) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 3. Section 60022 is added to the Revenue and Taxation Code to read:

60022. (a) “Diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle.

However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

“Diesel fuel” does not include kerosene. “Diesel fuel” includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2 (commencing with Section 7301) or Part 3 (commencing with Section 8601).

(b) This section shall become operative on January 1, 2007.

SEC. 4. Section 60023 of the Revenue and Taxation Code, as amended by Chapter 1053 of the Statutes of 2000, is amended to read:

60023. (a) “Blended diesel fuel” means any mixture of diesel fuel with respect to which tax has been imposed and any other liquid (such as kerosene) on which tax has not been imposed (other than diesel fuel dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service rules). Blended diesel fuel also means any conversion of a liquid into diesel fuel. “Conversion of a

liquid into diesel fuel” occurs when any liquid that is not included in the definition of diesel fuel and that is outside the bulk transfer/terminal system is sold as diesel fuel, delivered as diesel fuel, or represented to be diesel fuel.

(b) “Blended diesel fuel” does not include a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive package that causes the water droplets to remain suspended within the diesel fuel, provided that the diesel fuel emulsion meets the standards set by the California Air Resources Board.

(c) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 5. Section 60023 is added to the Revenue and Taxation Code to read:

60023. (a) “Blended diesel fuel” means any mixture of diesel fuel with respect to which tax has been imposed and any other liquid (such as kerosene) on which tax has not been imposed (other than diesel fuel dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service rules). Blended diesel fuel also means any conversion of a liquid into diesel fuel. “Conversion of a liquid into diesel fuel” occurs when any liquid that is not included in the definition of diesel fuel and that is outside the bulk transfer/terminal system is sold as diesel fuel, delivered as diesel fuel, or represented to be diesel fuel.

(b) This section shall become operative on January 1, 2007.

SEC. 6. Section 2 of this bill incorporates amendments to Section 60022 of the Revenue and Taxation Code proposed by both this bill and AB 309. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 60022 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 309, in which case Section 1 of this bill shall not become operative.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 9

An act to amend Section 15356 of the Government Code, and to amend Sections 25433.5, 25434.5, 26003, and 26011.6 of the Public Resources Code, relating to energy resources.

[Approved by Governor October 4, 2001. Filed with
Secretary of State October 5, 2001.]

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

SECTION 1. Section 15356 of the Government Code is amended to read:

15356. (a) The agency shall determine the percentage of the reserve in the Renewable Energy Loan Loss Reserve Fund required to secure loan guarantees made by the committee. However, in no event shall the reserve be less than 25 percent of the fund.

(b) The minimum amount that the agency may guarantee for any renewable energy system is twenty-five thousand dollars (\$25,000) and the maximum amount is two million dollars (\$2,000,000). The agency may elect to lower or raise the minimum or maximum amount if a change is found to be in the best interest of the state.

(c) The term of the guaranteed loan shall not exceed the useful life of the renewable energy system or 15 years, whichever is shorter.

(d) The amount guaranteed shall not exceed 90 percent of a loan, or an amount equal to the anticipated proportion of renewable fuel usage to fuel the renewable energy system, as defined by subdivision (e) of Section 15351, whichever is less.

SEC. 2. Section 25433.5 of the Public Resources Code is amended to read:

25433.5. (a) In consultation with the Public Utilities Commission, the commission shall do both of the following for the purpose of full or partial funding of an eligible construction or retrofit project:

(1) Establish a grant program to provide financial assistance to eligible low-income individuals.

(2) Establish a 2-percent interest per annum loan program to provide financial assistance to a small business owner, residential property owner, or individual who is not eligible for a grant pursuant to paragraph (1). The loans shall be available to a small business owner who has a gross annual income that does not exceed one hundred thousand dollars (\$100,000) or to an individual or residential property owner who has a gross annual household income that does not exceed one hundred thousand dollars (\$100,000).

(b) (1) The commission shall use the design guidelines adopted pursuant to paragraph (2) of subdivision (f) of Section 14 of the act that added this section as standards to determine eligible energy-efficiency projects.

(2) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that the commission applied factors, other than those adopted by the commission, in making the award.

(3) The grant or loan recipient shall commit to using the grant or loan for the purpose for which the grant or loan was awarded.

(4) Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission.

(5) The amount of any grant awarded pursuant to this article to a low-income individual does not constitute income for purposes of calculating the recipient's gross income for the tax year during which the grant is received.

SEC. 3. Section 25434.5 of the Public Resources Code is amended to read:

25434.5. As used in this article, the following terms have the following meanings:

(a) "Eligible construction or retrofit project" means a project for making improvements to a home or building in existence on the effective date of the act adding this section, through an addition, alteration, or repair, which effectively increases the energy efficiency or reduces the energy consumption of the home or building as specified by the commission's guidelines under paragraph (2) of subdivision (f) of Section 14 of the act that added this section. The improvements shall be deemed to be cost-effective.

(b) "Low income" means an individual with a gross annual income equal to or less than 200 percent of the federal poverty level.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

SEC. 4. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion thereof financed under this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, 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, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working

capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts and meeting the criteria set forth in paragraph (2) of subdivision (e) of Section 15351 of the Government Code, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) “Alternative sources” does not include any hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

(1) Intelligent vehicle highway systems.

(2) Advanced telecommunications for transportation.

(3) Command, control, and communications for public transit vehicles and systems.

(4) Electric vehicles and ultralow emission vehicles.

(5) High-speed rail and magnetic levitation passenger systems.

(6) Fuel cells.

(e) “Financial assistance” includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

(2) Any other type of assistance the authority determines is appropriate.

(f) “Participating party” means either of the following:

(1) Any person or any entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit,

that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(2) Any public agency or nonprofit corporation that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(g) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies.

(h) "Public agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, public district, or other political subdivision.

(i) (1) "Renewable energy" means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

- (A) Biomass.
- (B) Solar thermal.
- (C) Photovoltaic.
- (D) Wind.
- (E) Geothermal.

(2) For purposes of this subdivision, "conventional energy fuel" means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, "renewable energy" also means ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

SEC. 5. Section 26011.6 of the Public Resources Code is amended to read:

26011.6. (a) The authority shall establish a renewable energy program to provide financial assistance to public power entities, independent generators, utilities, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow emission equipment. The authority shall give preference to utility-scale projects that can be rapidly deployed to provide a significant contribution as a renewable energy supply.

(b) The authority shall make every effort to expedite the operation of renewable energy systems, and shall adopt regulations for purposes of this section and Section 26011.5 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding the 120-day limitation specified in subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the authority complies with Sections 11346.2 to 11347.3, inclusive, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) The authority shall consult with the State Energy Resources Conservation and Development Commission regarding the financing of projects to avoid duplication of other renewable energy projects.

(d) The authority shall ensure that any financed project shall offer its power within California on a long-term contract basis.

CHAPTER 10

An act to add Section 14684 to the Government Code, relating to solar energy.

[Approved by Governor October 5, 2001. Filed with
Secretary of State October 7, 2001.]

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 severe electrical shortages, which endanger the health, safety, and economic development opportunity of its citizens.

(b) Immediate measures are needed to increase the electrical generation capacity within California, including energy from solar energy systems.

(c) California has been a leader in the development of solar energy systems.

(d) California must take all reasonable actions necessary to encourage the use of solar energy systems at state buildings and facilities.

SEC. 2. Section 14684 is added to the Government Code, to read:

14684. (a) The department, in consultation with the State Energy Resources Conservation and Development Commission, shall ensure that solar energy equipment is installed, no later than January 1, 2007, on all state buildings and state parking facilities, where feasible. The department shall establish a schedule designating when solar energy equipment will be installed on each building and facility, with priority given to buildings and facilities where installation is most feasible, both for state building and facility use and consumption and local publicly owned electric utility use, where feasible.

(b) Solar energy equipment shall be installed where feasible as part of the construction of all state buildings and state parking facilities that commences after December 31, 2002.

(c) For purposes of this section, it is feasible to install solar energy equipment if adequate space on a building is available, and if the solar energy equipment is cost-effective. funding is available.

(d) No part of this section shall be construed to exempt the state from any applicable fee or requirement imposed by the Public Utilities Commission.

(e) The department may adopt regulations for the purposes of this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1. For purposes of Chapter 3.5 (commencing with Section 11340) of Part 1, including, but not limited to, Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

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

(1) “Cost-effective” means that the present value of the savings generated over the life of the solar energy system, including consideration of the value of the energy produced during peak and off-peak demand periods and the value of a reliable energy supply not subject to price volatility, shall exceed the present value cost of the solar energy equipment by not less than 10 percent. The present value cost of the solar energy equipment does not include the cost of unrelated building components. The department, in making the present value assessment, shall obtain interest rates, discount rates, and consumer price index figures from the Treasurer, and shall take into consideration air emission reduction benefits.

(2) “Local publicly owned electric utility” means a local publicly owned electric utility as defined in Section 9604 of the Public Utilities Code.

(3) “Solar energy equipment” means equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for electricity generation.

CHAPTER 11

An act to amend Sections 382, 739.1, and 2790 of, and to add Sections 382.1 and 386 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor October 8, 2001. Filed with
Secretary of State October 9, 2001.]

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

SECTION 1. Section 382 of the Public Utilities Code is amended to read:

382. (a) Programs provided to low-income electricity customers, including, but not limited to, targeted energy-efficiency services and the California Alternate Rates for Energy program shall be funded at not less than 1996 authorized levels based on an assessment of customer need.

(b) In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.

(c) Nothing in this section shall be construed to prohibit electric and gas providers from offering any special rate or program for low-income ratepayers that is not specifically required in this section.

(d) The commission shall allocate funds necessary to meet the low-income objectives in this section.

(e) Beginning in 2002, an assessment of the needs of low-income electricity and gas ratepayers shall be conducted periodically by the commission with the assistance of the Low-Income Oversight Board. The assessment shall evaluate low-income program implementation and the effectiveness of weatherization services and energy efficiency measures in low-income households. The assessment shall consider whether existing programs adequately address low-income electricity and gas customers' energy expenditures, hardship, language needs, and economic burdens.

SEC. 2. Section 382.1 is added to the Public Utilities Code, to read:

382.1. (a) There is hereby established a Low-Income Oversight Board that shall advise the commission on low-income electric and gas customer issues and shall serve as a liaison for the commission to low-income ratepayers and representatives. The Low-Income Oversight Board shall replace the Low-Income Advisory Board in existence on January 1, 2000. The Low-Income Oversight Board shall do all of the following to advise the commission regarding the commission's duties:

(1) Monitor and evaluate implementation of all programs provided to low-income electricity and gas customers.

(2) Assist in the development and analysis of any assessments of low-income electricity and gas customer need.

(3) Encourage collaboration between state and utility programs for low-income electricity and gas customers to maximize the leverage of state and federal energy efficiency funds to both lower the bills and increase the comfort of low-income customers.

(4) Provide reports to the Legislature, as requested, summarizing the assessment of need, audits, and analysis of program implementation.

(5) Assist in streamlining the application and enrollment process of programs for low-income electricity and gas customers with general low-income programs, including, but not limited to, the Universal Lifeline Telephone Service (ULTS) program.

(6) Encourage the usage of the network of community service providers in accordance with Section 381.5.

(b) The Low-Income Oversight Board shall be comprised of nine members to be selected as follows:

(1) Four members selected by the commission who have expertise in the low-income community and who are not affiliated with any state agency or utility group. These members shall be selected in a manner to ensure an equitable geographic distribution.

(2) One member selected by the Governor.

(3) One member selected by the commission who is a commissioner or commissioner designee.

(4) One member selected by the Department of Community Services and Development.

(5) One member selected by the commission who is a representative of private weatherization contractors.

(6) One member selected by the commission who is a representative of an electrical or gas corporation.

(c) The Low-Income Oversight Board shall alternate meeting locations between northern, central, and southern California.

(d) The Low-Income Oversight Board may establish a technical advisory committee consisting of low-income service providers, utility representatives, consumer organizations, and commission staff, to assist the board and may request utility representatives and commission staff to assist the technical advisory committee.

(e) The commission shall do all of the following in conjunction with the board:

(1) Work with the board, interested parties, and community-based organizations to increase participation in programs for low-income customers.

(2) Provide technical support to the board.

(3) Ensure that the energy burden of low-income electricity and gas customers is reduced.

(4) Provide formal notice of board meetings in the commission's daily calendar.

(f) (1) Members of the board and members of the technical advisory committee shall be eligible for compensation in accordance with state guidelines for necessary travel.

(2) Members of the board and members of the technical advisory committee who are not salaried state service employees shall be eligible for reasonable compensation for attendance at board meetings.

(3) All reasonable costs incurred by the board, including, staffing, travel, and administrative costs, shall be reimbursed through the public utilities reimbursement account and shall be part of the budget of the commission and the commission shall consult with the board in the preparation of that portion of the commission's annual proposed budget.

SEC. 3. Section 386 is added to the Public Utilities Code, to read:

386. (a) Each local publicly owned electric utility shall ensure the following:

(1) Low-income families within the utility's service territory have access to affordable electricity.

(2) The current level of assistance reflects the level of need.

(3) Low-income families are afforded no-cost and low-cost energy efficiency measures that reduce energy consumption.

(b) The local publicly owned electric utility shall consider increasing the level of the discount or raising the eligibility level for any existing rate assistance program to be reflective of customer need.

(c) A publicly owned electric utility shall streamline enrollment for low-income programs by collaborating with existing providers for the Low-Income Home Energy Assistance Program (LIHEAP) and other electric or gas providers within the same service territory.

(d) A local publicly owned electric utility shall establish participation goals for its rate assistance program participation.

SEC. 4. Section 739.1 of the Public Utilities Code is amended to read:

739.1. (a) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(b) The commission shall work with the public utility electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

(c) The commission shall examine methods to improve CARE enrollment and participation. This examination shall include, but need not be limited to, comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees. The commission shall ensure that a customer consents prior to enrollment. The commission shall consult with interested parties, including ULTS providers, to develop the best methods of informing ULTS customers about other available low-income programs, as well as the best mechanism for telephone providers to recover reasonable costs incurred pursuant to this section.

(d) The commission shall improve the CARE application process. To the extent possible, the commission shall develop a CARE application

process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.

(e) The commission’s program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission’s low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women’s shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(f) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the current energy crisis.

SEC. 5. Section 2790 of the Public Utilities Code is amended to read:

2790. (a) The commission shall require an electrical or gas corporation to perform home weatherization services for low-income customers, as determined by the commission under Section 739, if the commission determines that a significant need for those services exists in the corporation’s service territory, taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households.

(b) (1) For purposes of this section, “weatherization” may include, where feasible, any of the following measures for any dwelling unit:

- (A) Attic insulation.
- (B) Caulking.
- (C) Weatherstripping.
- (D) Low flow showerhead.
- (E) Waterheater blanket.
- (F) Door and building envelope repairs that reduce air infiltration.

(2) The commission shall direct any electrical or gas corporation to provide as many of these measures as are feasible for each eligible low-income dwelling unit.

(c) “Weatherization” may also include other building conservation measures, energy-efficient appliances, and energy education programs determined by the commission to be feasible, taking into consideration

for all measures both the cost-effectiveness of the measures as a whole and the policy of reducing energy-related hardships facing low-income households.

(d) Weatherization programs shall use the needs assessment pursuant to Section 382.1 to maximize efficiency of delivery.

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 12

An act to add and repeal Sections 17053.84 and 23684 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 8, 2001. Filed with
Secretary of State October 9, 2001.]

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

SECTION 1. Section 17053.84 is added to the Revenue and Taxation Code, to read:

17053.84. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, 2006, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial

incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) “Applicable dollar amount” means four dollars and fifty cents (\$4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, 2006.

(2) “Solar energy system” means a solar energy device, in the form of either a photovoltaic or wind-driven system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) A credit may be allowed under this section with respect to only one solar energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(4) No credit may be allowed under this section unless the solar energy system is actually used for purposes of producing electricity and primarily used to meet the taxpayer’s own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit shall be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar energy system is first placed in service in this state, the amount of credit allowed by this section for that solar energy system shall be recaptured by adding that credit amount to the net tax of the taxpayer for the taxable year in which the solar energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, 2006, and as of that date is repealed.

SEC. 2. Section 23684 is added to the Revenue and Taxation Code, to read:

23684. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, 2006, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) “Applicable dollar amount” means four dollars and fifty cents (\$4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, 2006.

(2) “Solar energy system” means a solar energy device, in the form of either a photovoltaic or wind-driven system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) A credit may be allowed under this section with respect to only one solar energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(4) No credit may be allowed under this section unless the solar energy system is actually used for purposes of producing electricity and is primarily used to meet the taxpayer’s own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit may be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar energy system is first placed in service in this state, the amount of credit allowed by this section for that solar energy system shall be recaptured by adding that credit amount to the tax of the taxpayer for the taxable year in which the solar energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, 2006, and as of that date is repealed.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 13

An act to add and repeal Sections 8571.5 and 8571.6 of the Government Code, relating to public health emergency conditions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2001. Filed with
Secretary of State October 10, 2001.]

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

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

(a) Businesses and citizens of the state are experiencing the effects of an energy crisis that are widespread and unprecedented.

(b) These effects include a lack of an adequate supply of electricity to sustain normal day-to-day, and hour-to-hour demand, coupled with the economic reality of the laws of supply and demand.

(c) The lack of an adequate supply of electricity has resulted in the requirement for utilities and related energy exchange managers to implement interruptible load programs designed to limit power through rotating outages (blackouts) to customers during those periods when electricity is in short supply.

(d) These outages are a vital tool in protecting the state from widespread electrical system collapse when demand for electricity exceeds supply.

(e) This summer, California is facing the possibility of frequent rotating electrical outages.

(f) Skilled nursing facilities are licensed health care facilities that care for the state's most fragile and vulnerable citizens.

(g) The physical infrastructure and related systems of these licensed health facilities are governed by building and fire and life safety code requirements regulated by the office of Statewide Health Planning and Development and the office of the State Fire Marshal.

(h) This regulation includes all systems powered by or related to electricity.

(i) Licensed health facilities also have specific requirements with respect to an Essential Electrical System.

(j) In addition to the Essential Electrical System requirements, care of patients requires the use of technical medical equipment such as ventilators, intravenous pumps, and other medical devices that are designed to sustain residents' vital functions and require electrical power in order to operate.

(k) Licensed health facilities are located throughout all areas of California with diverse differences in climate which are subject to extreme heat or cold depending on the season of the year.

(l) The environmental climate infrastructure within these licensed health facilities is aging and energy inefficient.

(m) Licensed health facilities are required to have emergency power requirements to sustain the Essential Electrical System and related systems during loss of electrical power. However, these emergency power requirements are designed for infrequent interruption and may not be sustainable during frequent interruption and backup requirements.

(n) The older emergency power sources of licensed health facilities are not designed or equipped to power more modern energy efficient systems.

(o) Licensed health care facilities under normal business conditions are required to go through a building application and plan check process under the jurisdiction of the Office of Statewide Health Planning and Development.

(p) This process is bureaucratically efficient, but is subject to inherent delays impacting timely approvals of projects.

(q) Only certain utility customers such as hospitals, fire and police stations, and air traffic control facilities are classified as essential customers and are exempt from rotating outages.

(r) Many other customers, including skilled nursing facilities, have requested and petitioned the Public Utilities Commission (PUC) to be classified as essential, therefore, exempt from the possibility of frequent rotating blackouts during the summer of 2001.

(s) The number of customers that can be exempted is severely limited due to the necessity of maintaining a reasonable pool of customers from which to draw for rotating outages.

(t) On May 21, 2001, the Public Utilities Commission rendered an order in the matter of these requests by establishing a process for application to be used for a new category entitled essential customer normally exempt from rotating outages.

(u) Although skilled nursing facilities will be allowed to apply under this new classification, the process is onerous and timing may be problematic, thus subjecting skilled nursing facilities to the pool of customers subject to such required outages.

(v) The summer of 2001 holds great potential for harm to the health and safety of the residents of skilled nursing facilities unless rotating outages can either be eliminated, or facilities are allowed to immediately move forward with implementing preventive measures such as improving environmental systems, such as heating and air-conditioning and improving emergency power requirements.

SEC. 2. Section 8571.5 is added to the Government Code, to read:

8571.5. (a) When extraordinary conditions exist within the state relating to an inadequate supply of energy that has a strong potential for causing harm to the health and safety of residents of long-term health care facilities, as that term is used in Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code, the Governor by executive order, or the Director of the Office of Statewide Health Planning and Development, may suspend enforcement of laws and regulations related to construction or renovation of existing long-term health care facilities. This section does not permit the suspension of the implementation of any provision of the Labor Code.

(b) The suspension authority provided under this section shall extend only to projects designed to cope with an energy shortage or enhance energy conservation. Any suspension implemented pursuant to subdivision (a), shall only remain in effect for the duration of the condition necessitating the need for the suspension or until the potential for harm caused by the condition creating the emergency situation no longer exists.

(c) A listing of the specific laws and regulations suspended and the specific conditions not subject to the suspension referenced in subdivision (d), shall be defined by the Director of the Office of Statewide Health Planning and Development no later than 15 days after the issuance of the executive order pursuant to subdivision (a).

(d) This section shall not permit the suspension of the life safety requirements of the Office of Statewide Health Planning and Development and the office of the State Fire Marshal where the suspension would pose a greater danger than the situation caused by the extraordinary condition and the proposed action the licensee seeks to use to mitigate the potential harm or danger caused by the extraordinary condition.

(e) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 8571.6 is added to the Government Code, to read:

8571.6. (a) The Office of Statewide Health Planning and Development, in consultation with the office of the State Fire Marshal, shall establish specific laws and regulations from which exemptions may be granted pursuant to Section 8571.5 to long-term health care facilities, as that term is used in Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code.

(b) The establishment of a list of exemptions pursuant to subdivision (a) shall not preclude the Governor or the Director of the Office of Statewide Health Planning and Development from adopting additional exemptions pursuant to an executive order issued pursuant to Section 8571.5.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 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 immediately protect the elderly and disabled residents who reside in the state's 1,200 skilled nursing facilities and who are dependent on the facilities' ability to provide quality care in a safe, low stress environment, and to maintain temperature control, lighting, infection control, and the use of technologically advanced medical equipment, it is necessary that this act take effect immediately.

CHAPTER 14

An act to amend Section 625 of the Public Utilities Code, relating to energy.

[Approved by Governor October 11, 2001. Filed with
Secretary of State October 12, 2001.]

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

SECTION 1. Section 625 of the Public Utilities Code is amended to read:

625. (a) (1) (A) For the purpose of this article, except as specified in paragraph (4), a public utility that offers competitive services may not

condemn any property for the purpose of competing with another entity in the offering of those competitive services, unless the commission finds that such an action would serve the public interest, pursuant to a petition or complaint filed by the public utility, personal notice of which has been served on the owners of the property to be condemned, and an adjudication hearing in accordance with Chapter 9 (commencing with Section 1701), including an opportunity for the public to participate.

(B) The requirements of this section do not apply to the condemnation of any property that is necessary solely for an electrical company or gas corporation to meet its commission-ordered obligation to serve. Proposed exercises of eminent domain by electrical or gas corporations that initially, or subsequently, acquire property for either commission-ordered electrical corporation obligation to serve and competitive telecommunications services or gas corporation obligation to serve and telecommunications services are subject to paragraph (2) of subdivision (b). For property acquired through the exercise of eminent domain after January 1, 2000, by an electrical or gas corporation solely to meet its commission-ordered obligation to serve, any electrical or gas corporation, or subsidiary or affiliate, that intends to install telecommunication equipment on the property for the purpose of providing competitive telecommunications services shall provide notice for the planned installation in the commission calendar.

(2) (A) Before making a finding pursuant to this subdivision, the commission shall conduct the hearing in the local jurisdiction that would be affected by the proposed condemnation. The hearing shall commence within 45 days of the date that the petition or complaint is filed, unless the respondent establishes that an extension of not more than 30 days is necessary for discovery or other hearing preparation. The commission shall provide public notice of the hearing pursuant to the procedures of the commission and shall also notify the local jurisdiction. In addition, the commission shall provide the local jurisdiction with copies of the notice of hearing in time for the local jurisdiction to mail that notice at least seven days in advance of the hearing to all persons who have requested copies of the local jurisdiction's agenda or agenda packet pursuant to Section 54954.1 of the Government Code.

(B) For purposes of subparagraph (A), "local jurisdiction" means each city within whose boundaries property sought to be taken by eminent domain is located, and if property sought to be taken is not located within city boundaries, each county within whose boundaries that property is located. However, where there is more than one local jurisdiction with respect to a single complaint or petition, the commission shall provide notice and copies of notices for mailing to all local jurisdictions involved, but shall hold only a single hearing in any one of those local jurisdictions.

(3) (A) The assigned commissioner or administrative law judge shall render a decision on making a finding in accordance with this subdivision within 45 days of the conclusion of the hearing, unless further briefing is ordered, in which event this period may be extended by up to 30 additional days to allow for briefing.

(B) If the rendering of a decision pursuant to this subdivision requires review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), then the time limits contained in subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (3) shall be extended as needed to accommodate that review.

(4) This subdivision and Section 626 do not apply to a railroad corporation, a refined petroleum product common carrier pipeline corporation, or a water corporation.

(b) The commission may make a finding pursuant to subdivision (a) if, in the determination of the commission, either of the following conditions is met:

(1) The proposed condemnation is necessary to provide service as a provider of last resort to an unserved area, except when there are competing offers from facility-based carriers to serve that area.

(2) The public utility is able to show all of the following with regard to the proposed condemnation:

(A) The public interest and necessity require the proposed project.

(B) The property to be condemned is necessary for the proposed project.

(C) The public benefit of acquiring the property by eminent domain outweighs the hardship to the owners of the property.

(D) The proposed project is located in a manner most compatible with the greatest public good and least private injury.

(c) The commission shall develop procedures to facilitate access for affected property owners to eminent domain proceedings pursuant to this section, and to facilitate the participation of those owners in those proceedings.

(d) Nothing in this section relieves a public utility from complying with Section 1240.030 of the Code of Civil Procedure or any other requirement imposed by law.

(e) A public utility that does not comply with this section may not exercise the power of eminent domain, including, but not limited to, any authority provided by Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(f) The authority provided in this section supplements, and does not replace or otherwise affect any other limitation in law on the exercise of the power of eminent domain, including, but not limited to, any

authority provided by Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(g) (1) At the request of a public utility gas corporation, the commission shall hold the local hearing required in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) and make and certify the finding required by paragraph (1) of subdivision (a) as part of the procedure to issue a certificate of public convenience and necessity.

(2) Notwithstanding any other provision of law, if the commission holds public hearings during the certification procedure for the purpose of making the determination required under paragraph (2) of subdivision (b), the commission shall have an additional 45 days beyond the date of any otherwise applicable statutory or regulatory deadline for making a determination.

CHAPTER 15

An act to amend Section 32960 of the Financial Code, to amend Sections 25415 and 25443 of the Public Resources Code, and to amend Section 353.13 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2001. Filed with
Secretary of State October 12, 2001.]

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

SECTION 1. Section 32960 of the Financial Code is amended to read:

32960. This chapter shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 25415 of the Public Resources Code is amended to read:

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 22 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule,

periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs.

SEC. 3. Section 25443 of the Public Resources Code is amended to read:

25443. (a) Principal and interest payments on loans under this article shall be returned to the commission and shall be used to make additional loans to local jurisdictions pursuant to Section 25442 or to provide financial assistance to local jurisdictions pursuant to Section 25441.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

SEC. 4. Section 353.13 of the Public Utilities Code is amended to read:

353.13. (a) The commission shall require each electrical corporation to establish new tariffs on or before January 1, 2003, for customers using distributed energy resources, including, but not limited to, those that do not meet all of the criteria described in Section 353.1. However, after January 1, 2003, distributed energy resources that meet all of the criteria described in Section 353.1 shall continue to be subject only to those tariffs in existence pursuant to Section 353.3, until June 1, 2011, except that installations that do not operate in a combined heat and power application will be subject to those tariffs in existence pursuant to Section 353.3 only until June 1, 2006. Those tariffs required pursuant to this section shall ensure that all net distribution costs incurred to serve each customer class, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, are fully recovered only from that class. The commission shall require each electrical corporation, in establishing those rates, to ensure that customers with similar load profiles within a customer class will, to the extent practicable, be subject to the same utility rates, regardless of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218. Customers with dedicated facilities shall remain responsible for their obligations regarding payment for those facilities.

(b) The commission shall prepare and submit to the Legislature, on or before June 1, 2002, a report describing its proposed methodology for

determining the new rates and the process by which it will establish those rates.

(c) In establishing the tariffs, the commission shall consider coincident peakload, and the reliability of the onsite generation, as determined by the frequency and duration of outages, so that customers with more reliable onsite generation and those that reduce peak demand pay a lower cost-based rate.

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 implement energy conservation and efficiency measures as soon as possible, to protect the public peace, health, and safety, it is necessary that this act take effect immediately.

CHAPTER 16

An act to amend Section 335 of, and to add and repeal Sections 341.6, 342, and 9613 of, the Public Utilities Code, relating to public utilities.

[Approved by Governor October 11, 2001. Filed with
Secretary of State October 12, 2001.]

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

SECTION 1. Section 335 of the Public Utilities Code is amended to read:

335. In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter, any reference to the Oversight Board shall mean the Electricity Oversight Board. Its functions shall be all of the following:

(a) To oversee the Independent System Operator and the Power Exchange.

(b) To determine the composition and terms of service and to exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange.

(c) To serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the Oversight Board has the exclusive right to decline to confirm include proposed governing board members representing

agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups.

(e) To investigate any matter related to the wholesale market for electricity to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of electric transmission and generation and related costs, during periods of peak demand.

SEC. 2. Section 341.6 is added to the Public Utilities Code, to read:

341.6. (a) The Oversight Board may direct the inspection or reproduction of records, data, accounts, books, or documents of the Independent System Operator or the Power Exchange that are reasonably related to the public interest of the people of California, including, but not limited to, the reliability, availability, and cost of electric service to California consumers.

(b) The Oversight Board may direct the Independent System Operator to report to the Oversight Board on those matters and at those times as the Oversight Board determines are necessary and appropriate to the exercise of its public oversight duties.

(c) Information received by the Oversight Board pursuant to this section shall be held in confidence by the Oversight Board or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(d) (1) Whenever the Oversight Board receives a request to publicly disclose unaggregated information, notice of the request or proposal shall be provided to the person submitting the information to the Oversight Board through the Independent System Operator. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The Oversight Board shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it for which a claim of confidentiality is made. The Oversight Board shall issue a written decision that sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(e) The Oversight Board may not make public disclosure of information submitted to it pursuant to this section until 10 working days

after the Oversight Board has issued its written decision required in this section.

(f) No information submitted to the Oversight Board pursuant to this section shall be deemed confidential if the person submitting the information or data has made it public.

(g) With respect to information submitted by the Independent System Operator to the Oversight Board pursuant to this section, neither the Oversight Board nor any employee of the Oversight Board shall do any of the following:

(1) Use the information furnished to the Oversight Board for any purpose other than the purpose for which it is supplied.

(2) Make any publication whereby the information furnished by any particular entity or individual to the Independent System Operator can be identified.

(3) Permit anyone other than members or employees of the Oversight Board to examine the information.

(h) The Oversight Board shall disclose to the commission any information requested by the commission for the purpose of implementing this division. The commission shall treat information received pursuant to this section in accordance with Section 583 and shall specifically provide for the confidentiality of records and protection of propriety information. With respect to the information it receives from the Oversight Board, the commission shall be subject to the pertinent provisions of this section.

(i) The Oversight Board may adopt emergency regulations to implement this section in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations pursuant to this section shall be deemed an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(j) This section shall remain in effect until the earlier of either of the following occurs, and as of that date is repealed:

(1) (A) A determination is made and notice thereof is provided pursuant to subparagraph (B).

(B) Upon a determination by the Attorney General that the Oversight Board has been abolished, or merged with, or replaced by, another agency, or that the functions of the Oversight Board have been duplicated by statute, executive order, or otherwise, the Attorney General shall submit a notice of that determination to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

(2) January 1, 2003.

SEC. 3. Section 342 is added to the Public Utilities Code, to read:

342. (a) The Legislature finds and declares that electric generation and transmission facilities are critical infrastructure and their predictable availability is essential to the public welfare.

(b) Electric generation and transmission facilities shall be subject to standards related to their availability, in accordance with this section.

(c) Owners or operators of electric generating facilities in the State of California shall comply with all protocols and standards approved or established pursuant to this chapter.

(d) On or before March 1, 2002, the Oversight Board, in consultation with the commission and the Independent System Operator, shall prepare and adopt protocols for the scheduling of transmission and generation equipment outages for the purposes of maintenance, repair, or upgrade.

(e) The Oversight Board, in consultation with the commission and the Independent System Operator, shall prepare and adopt a schedule of transmission and generation equipment outages according to the protocols adopted pursuant to subdivision (d).

(f) The Oversight Board shall direct the Independent System Operator to develop and submit to the Oversight Board and the commission proposed generation facility maintenance, operating, and availability standards for generator units with a rated maximum capacity of 10 megawatts or greater. The Oversight Board shall adopt and may, as necessary, make revisions to, the standards. In developing standards, the Oversight Board and the Independent System Operator shall take into consideration generation facilities scheduled for retirement and valid warranties on generation facilities. The commission may adopt these standards and ensure compliance with these standards of owners and operators of generation facilities subject to its jurisdiction. Nothing in this subdivision shall be construed to limit the commission's authority to develop facility maintenance, operating, and availability standards for generation facilities under the commission's jurisdiction.

(g) Nothing in this section shall result in the modification, delay, or abrogation of any deadline, standard, rule, or regulation adopted by a federal, state, or local agency for the purposes of protecting public health or the environment, including, but not limited to, any requirements imposed by the State Air Resources Board or by an air pollution control district or an air quality management district pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code. The Oversight Board shall consult with the State Air Resources Board and the appropriate local air pollution control districts and air quality management districts to coordinate scheduled outages to provide for compliance with those retrofits.

(h) The Independent System Operator shall maintain records of generation facility outages and shall provide those records, and any additional information as determined by the Oversight Board, to the Oversight Board and the commission on a daily basis. Each entity that owns or operates an electric generating unit in California with a rated maximum capacity of 10 megawatts or greater, shall provide a monthly report to the Independent System Operator that identifies any periods during the preceding month when the unit was unavailable to produce electricity or was available only at reduced capacity. The report shall identify the reasons for any such unscheduled unavailability or reduced capacity. The Independent System Operator shall immediately transmit the information to the Oversight Board and the commission.

(i) The commission, in consultation with the Oversight Board, shall adopt a penalty schedule applicable to any person or entity who is in violation of any provision of this article.

(j) The Oversight Board may request the commission to undertake proceedings related to assessing monetary penalties for noncompliance. Nothing in this subdivision shall be construed to limit the commission's authority to initiate its own action for noncompliance.

(k) The Oversight Board, in consultation with the commission, may seek an injunction from a court of competent jurisdiction to require compliance with this section. This subdivision shall not limit any authority of the commission to seek injunctions within its jurisdiction.

(l) Except as provided in Section 9613, notwithstanding any other provision of law, neither the provisions of this section, nor any rules, regulations, standards, or protocols issued in furtherance of this section, nor the penalties described in subdivisions (i) and (j), shall apply to any of the following:

(1) A local publicly owned electric utility, as defined in subdivision (d) of Section 9604.

(2) Any public agency that may generate electricity incidental to the provision of water or wastewater treatment.

(m) (1) Except as otherwise provided in this subdivision, this section shall not apply to nuclear powered generating facilities that are federally regulated and subject to standards developed by the Nuclear Regulatory Commission, and that participate as members of the Institute of Nuclear Power Operations.

(2) The owner or operator of a nuclear powered generating facility shall file with the Oversight Board and the commission an annual schedule of maintenance, including repairs and upgrades, updated quarterly, for each generating facility. The owner or operator of a nuclear powered generating facility shall make good faith efforts to conduct its maintenance in compliance with its filed plan and shall report to the Oversight Board any significant variations from its filed plan.

(3) The owner or operator of a nuclear powered generating facility shall report on a monthly basis to the Oversight Board and the commission all actual planned and unplanned outages of each facility during the preceding month. The owner or operator of a nuclear powered generating facility shall report on a daily basis to the Oversight Board the daily operational status and availability of each facility.

(n) (1) Except as otherwise provided in this subdivision, this section shall not apply to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C.A. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Secs. 292.101 to 292.602, inclusive), nor shall this section apply to other generation units installed, operated, and maintained at a customer site exclusively to serve that customer's load.

(2) An electrical corporation that has a contract with a qualifying small power production facility, or a qualifying cogeneration facility, with a name plate rating of 10 megawatts or greater shall report to the Oversight Board and the commission maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility. Each facility with a name plate rating of 10 megawatts or greater shall be responsible for directly reporting to the Oversight Board maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility, if that information is not provided to the electrical corporation pursuant to a contract.

(o) This section shall remain in effect until the earlier of either of the following occurs, and as of that date is repealed:

(1) (A) A determination is made and notice thereof is provided pursuant to subparagraph (B).

(B) Upon a determination by the Attorney General that the Oversight Board has been abolished, or merged with, or replaced by, another agency, or that the functions of the Oversight Board have been duplicated by statute, executive order, or otherwise, the Attorney General shall submit a notice of that determination to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

(2) January 1, 2003.

SEC. 4. Section 9613 is added to the Public Utilities Code, to read:

9613. (a) Each local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment, shall file with the Oversight Board an annual

schedule of maintenance, updated quarterly, for all generation units with a rated maximum capacity of 10 megawatts or greater and all transmission facilities. A local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment, shall make good faith efforts to conduct its maintenance in compliance with its filed plan and shall report to the Oversight Board any significant variations from its filed plan.

(b) Each local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment that owns or operates generation units with a rated maximum of 10 megawatts or greater or transmission facilities shall report on a monthly basis to the Oversight Board all actual planned and unplanned outages of those generating units and transmission facilities during the preceding month.

(c) Each local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment, that owns or operates generation units with a rated maximum of 10 megawatts or greater or transmission facilities shall adopt standards for the maintenance of those generating units and transmission facilities. Each local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment, shall file its standards with the Oversight Board. Each local publicly owned electric utility, or public agency that may generate electricity incidental to the provision of water or wastewater treatment, shall report the daily operational status and availability of its generation units with a rated maximum of 10 megawatts and its transmission facilities to the Oversight Board on a daily basis.

(d) This section shall remain in effect until the earlier of either of the following occurs, and as of that date is repealed:

(1) (A) A determination is made and notice thereof is provided pursuant to subparagraph (B).

(B) Upon a determination by the Attorney General that the Oversight Board has been abolished, or merged with, or replaced by, another agency, or that the functions of the Oversight Board have been duplicated by statute, executive order, or otherwise, the Attorney General shall submit a notice of that determination to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

(2) January 1, 2003.

SEC. 5. The Oversight Board shall report in writing to the appropriate policy committees of the Legislature on a quarterly basis on its progress in implementing this act. The report shall include, but need not be limited to, information concerning outage scheduling and

coordination, compliance with standards by owners of generating and transmission facilities, and wholesale price fluctuations.

SEC. 6. 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. 7. This act shall become operative only if Senate Bill 39 of the Second Extraordinary Session of 2001–02 is enacted and becomes effective.

CHAPTER 17

An act to amend Section 25619 of, and to add Chapter 5.1 (commencing with Section 25406) to Division 15 of, the Public Resources Code, and to add Section 9618 to the Unemployment Insurance Code, relating to energy.

[Approved by Governor October 11, 2001. Filed with
Secretary of State October 12, 2001.]

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 Solar Training, Education, and Certification Act of 2001.

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

(1) California's increasing energy needs require the development of alternative energy resources, including solar energy for the production of heat and electricity.

(2) California leads the nation and ranks as a world leader in the development of technologies and programs to accelerate the use of solar energy.

(3) A training and certification program authorized by the Legislature and administered by the Employment Development Department, in consultation and cooperation with the Contractors' State License Board and solar industry stakeholders, can help mitigate the state's energy shortage by ensuring that appropriate training and education is available for those practicing in and entering into the solar energy design, construction, and installation businesses.

SEC. 2. Chapter 5.1 (commencing with Section 25406) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.1. SOLAR AND PHOTOVOLTAIC SYSTEMS

25406. A local government may develop and administer a program to encourage the construction of buildings that use solar thermal and photovoltaic systems that meet applicable standards and requirements imposed by the state or the local government for an eligible solar energy system pursuant to paragraph (2) of subdivision (g) of Section 25619. The program shall recognize owners and builders who participate in the program by awarding these owners and builders a "Sunny Homes Seal."

SEC. 3. Section 25619 of the Public Resources Code is amended 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. In the absence of certification, major components of eligible solar energy systems for electricity generation shall comply with specifications adopted by the commission.

(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 9618 is added to the Unemployment Insurance Code, to read:

9618. (a) The department shall administer a solar training program. The department shall coordinate with the Division of Apprenticeship Standards and the State Contractors’ License Board to ensure solar energy product and service providers in California possess and maintain the necessary skills, training, and certification.

(b) Elements of the training program shall include, but need not be limited to, all of the following:

(1) The science of photovoltaics and small scale solar thermal technologies.

(2) The design of solar systems.

(3) The installation of solar systems.

- (4) Permitting of solar systems.
- (5) Safety.
- (6) System and component certification.
- (7) State and federal incentive programs.

SEC. 5. The Solar Training, Education, and Certification Act of 2001 shall be funded by available job training funds in existence on the effective date of the act adding this section during the 2001–02 Second Extraordinary Session.

CHAPTER 18

An act to amend Section 11652 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 14, 2001. Filed with
Secretary of State October 14, 2001.]

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

SECTION 1. Section 11652 of the Public Utilities Code is amended to read:

11652. (a) The board of supervisors shall canvass, separately, the returns of each public agency and each parcel of unincorporated territory, if any.

(b) Subject to subdivision (c), the board of supervisors shall declare a district created and established of those public agencies and parcels of unincorporated territory in which a majority of those persons who voted did so in favor of the creation of the district. Those public agencies and parcels of unincorporated territory in which a majority of those persons voting did not vote in favor of the creation of the district shall be excluded from the district.

(c) A district may be created and established pursuant to subdivision (b) only if the number of registered voters in the approving public agencies and parcels of unincorporated territory is two-thirds or more of the total number of registered voters within the district as proposed to the voters.

SEC. 2. Section 11652 of the Public Utilities Code is amended to read:

11652. The board of supervisors shall canvass the returns of each public agency and each parcel of unincorporated territory, if any, separately, and shall order and declare the district created and established of only the public agencies and territory in which a majority of those who voted on the proposition voted in favor of the creation of the district.

SEC. 3. Section 1 of this bill amends Section 11652 of the Public Utilities Code. Section 2 of this bill amends Section 11652 of the Public Utilities Code as proposed by SB 23 2X. If both this bill and SB 23 2X are enacted and become effective, and each bill amends Section 11652 of the Public Utilities Code, and this bill is enacted after SB 23 2X, Section 2 of this bill shall be operative from the effective date of this bill until January 1, 2007, and shall become inoperative on January 1, 2007, and Section 1 of this bill shall become operative on January 1, 2007. If this bill is enacted and becomes effective, and SB 23 2X is not enacted and does not become effective, then Section 1 of this bill shall become operative on the effective date of this bill, and Section 2 of this bill shall not become operative.

CONCURRENT RESOLUTION

2001-02

SECOND EXTRAORDINARY SESSION

2001 RESOLUTION CHAPTER

RESOLUTION CHAPTER 1

Senate Joint Resolution No. 1—Relative to daylight saving time.

[Filed with Secretary of State June 27, 2001.]

WHEREAS, The State of California is currently experiencing an energy crisis that imperils commercial and residential energy consumers throughout the state; and

WHEREAS, It is the responsibility of the State of California to employ any and all means of energy reduction that will reduce reliance and pressure on energy infrastructure in the State of California; and

WHEREAS, Daylight saving time was a widely used 20th century energy reduction tool that can be expanded to meet 21st century energy shortages; and

WHEREAS, A report by the California State Energy Resources Conservation and Development Commission, issued May 2001 and entitled “Effects of Daylight Saving Time on California Energy Use,” indicates that winter daylight saving time, as that term is defined in the report, would likely reduce electricity use by 3,400 megawatt hours per day and that summer double daylight saving time, as that term is defined in the report, would likely reduce electricity use by 1,500 megawatt hours per day, producing a cost savings of \$300,000,000 to \$1,025,000,000 per year for California ratepayers; and

WHEREAS, Federal studies have shown that daylight saving time provides benefits in addition to energy use reduction, such as safer streets and highways during evening commute hours and reduction in crime due to increased hours of light in the evenings; and

WHEREAS, The citizens of California are being asked to make major changes in their personal and professional lives to conserve energy and would be grateful to receive the benefits of year-round daylight saving time in return; and

WHEREAS, Although neither standard time nor daylight saving time produce much energy reduction for the coldest states during the more frigid months of the year, California enjoys a temperate climate that would afford greater reductions in energy use by utilizing a year-round daylight saving time plan than could be enjoyed by the coldest states; and

WHEREAS, The federal Uniform Time Act of 1966 allows states to decline application of daylight saving time and provides states with the option of practicing standard time year round, but does not allow states to practice daylight saving time year round; and

WHEREAS, By applying daylight saving time uniformly, the State of California could avoid any inconsistencies in time application that would otherwise impact and confuse the broadcasting, rail, airline and motorcoach industries; and

WHEREAS, The State of California would greatly benefit from having the option of extending daylight saving time year round; and

WHEREAS, The State of California should have at its disposal any and every appropriate tool to triumph during this energy crisis; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to approve legislation that allows a state to uniformly apply daylight saving time year round; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, Members of the United States Congress, the Secretary of the United States Department of Energy, the Governor of the State of California, the California State Energy Resources Conservation and Development Commission, and the California Public Utilities Commission.

APPENDIX

COUNTY, CITY, AND CITY AND COUNTY CHARTERS
AND CHARTER AMENDMENTS

as transmitted by the Secretary of State for inclusion in the official statutes in
accordance with Section 3, Article XI, of the California Constitution as amended
by vote of electors on November 5, 1974.

CHARTER AMENDMENTS—2001

Charter Chapter Number	City—County	Date of Election	Date of Filing
1	City and County of San Francisco	Nov. 7, 2000	Jan. 5, 2001
2	City of Santa Monica.....	Nov. 7, 2000	Jan. 8, 2001
3	City of Santa Monica.....	Nov. 7, 2000	Jan. 8, 2001
4	City of San Luis Obispo.....	Nov. 7, 2000	Jan. 9, 2001
5	City of San Leandro	Nov. 7, 2000	Jan. 26, 2001
6	City of Chula Vista	Nov. 7, 2000	Feb. 6, 2001
7	City of Anaheim	Nov. 7, 2000	Feb. 6, 2001
8	City of Oakland	Nov. 7, 2000	Feb. 13, 2001
9	City of Signal Hill	Nov. 7, 2000	Feb. 23, 2001
10	City of Vallejo.....	Nov. 7, 2000	Feb. 26, 2001
11	City of Redondo Beach	March 6, 2001	March 29, 2001
12	City of Napa	March 6, 2001	April 3, 2001
13	City of San Jose.....	Nov. 7, 2000	April 16, 2001
14	City of Los Angeles.....	April 24, 2001	May 2, 2001
15	City of Burbank.....	April 10, 2001	June 11, 2001
16	City of Los Angeles.....	June 5, 2001	July 10, 2001
17	City of Monterey	Nov. 6, 2001	Dec. 27, 2001

Charter Chapter 1—City and County of San Francisco

***Amendments to the Charter of the City and County
of San Francisco***

[Filed with the Secretary of State January 5, 2001.]

Appendix A8.587 and Appendix A8.857-1 through A8.587-13 are added to read as follows:

A8.587 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER NOVEMBER 7, 2000

Miscellaneous officers and employees on November 7, 2000 who were members of the retirement system under Section A8.584, miscellaneous officers and employees under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who were not retired on that date, and miscellaneous officers and employees who become members of the retirement system on and after November 7, 2000 shall be members of the retirement system subject to the provisions of Sections A8.587 through A8.587-13, in addition to such other applicable provisions including, but not limited to, A8.500 of this charter; provided that persons who become members under the Public Employees' Retirement System of the State of California or members of the State Teachers' Retirement System of the State of California shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time or temporary basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board.

A8.587-1 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

“Retirement allowance,” or “allowance,” shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, but excluding remuneration for overtime and such other forms of compensation excluded by the board of supervisors pursuant to Section A8.500 of the charter.

“Compensation earnable” shall mean the compensation as determined by the retirement board, which would have been earned by the member had he or she worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him or her during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he or she was in the position

held by him or her at the beginning of the absence, and that prior to entering city service, he or she was in the position first held by him or her in city service.

“Benefit” shall include “allowance,” “retirement allowance,” and “death benefit.”

“Average final compensation” shall mean the average monthly compensation earned by a member during any one year of credited service in the retirement system in which his or her average final compensation is the highest.

For the purposes of the retirement system and of this section, Section A8.587 and Sections A8.587-2 through A8.587-13, the terms “miscellaneous officer or employee,” or “member,” shall mean any officer or employee employed on November 7, 2000 who was a member of the retirement system under Section A8.584, any member of the retirement system under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who was not retired on that date, and any officer or employee employed on or after November 7, 2000 who is not a member of the police or fire departments as defined in the charter for the purposes of the retirement system. Said terms shall not include those persons who become members under the Public Employees’ Retirement System or members of the State Teachers’ Retirement System.

“Retirement system” or “system” shall mean San Francisco City and County Employees’ Retirement System as created in Section A8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in Section 12.100 of the charter,

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board.

A8.587-2 SERVICE RETIREMENT

Any member who completes at least 20 years of service in the aggregate credited in the retirement system and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Section A8.587-7 may retire for service at his or her option. Members may retire under this section or under the provisions of A8.587-6, on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of 2 percent of said average final compensation for each year of service. The service retirement allowance of any member retiring prior to attaining the age of 60 years, and after rendering 20 years or more of such service, computed under Section A8.587-7, and having attained the age of 50 years, shall be an allowance equal to the percentage of said average final compensation set forth opposite his or her age at

retirement, taken to the preceding completed quarter year, for each year of service, computed under Section A8.587-7:

Age at Retirement	Percent for Each Year of Credited Service
50	1.000
50 $\frac{1}{4}$	1.0250
50 $\frac{1}{2}$	1.0500
50 $\frac{3}{4}$	1.0750
51	1.1000
51 $\frac{1}{4}$	1.1250
51 $\frac{1}{2}$	1.1500
51 $\frac{3}{4}$	1.1750
52	1.2000
52 $\frac{1}{4}$	1.2250
52 $\frac{1}{2}$	1.2500
52 $\frac{3}{4}$	1.2750
53	1.3000
53 $\frac{1}{4}$	1.3250
53 $\frac{1}{2}$	1.3500
53 $\frac{3}{4}$	1.3750
54	1.4000
54 $\frac{1}{4}$	1.4250
54 $\frac{1}{2}$	1.4500
54 $\frac{3}{4}$	1.4750
55	1.5000
55 $\frac{1}{4}$	1.5250
55 $\frac{1}{2}$	1.5500
55 $\frac{3}{4}$	1.5750
56	1.6000
56 $\frac{1}{4}$	1.6250
56 $\frac{1}{2}$	1.6500
56 $\frac{3}{4}$	1.6750
57	1.7000
57 $\frac{1}{4}$	1.7250
57 $\frac{1}{2}$	1.7500
57 $\frac{3}{4}$	1.7750
58	1.8000
58 $\frac{1}{4}$	1.8250
58 $\frac{1}{2}$	1.8500
58 $\frac{3}{4}$	1.8750
59	1.9000
59 $\frac{1}{4}$	1.9250
59 $\frac{1}{2}$	1.9500
59 $\frac{3}{4}$	1.9750
60	2.0000

In no event shall a member's retirement allowance exceed seventy-five percent of his or her average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or Section A8.587-3, may elect to receive the actuarial equivalent of his or her allowance, partly in an allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits. Notwithstanding the provisions of Section A8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after thirty years of service and after attaining the age of 60 years, and provided further that as to any member with 15 years or more of service at the retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be converted to full-time service and compensation in the manner prescribed by the board of supervisors, and when so converted shall be applied on full-time service and compensation in the calculation of retirement allowances.

A8.587-3 RETIREMENT FOR INCAPACITY

Any member who becomes incapacitated for performance of duty because of disability determined by a qualified hearing officer to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the retirement system in the aggregate, computed as provided in Section A8.587-7, shall be retired upon an allowance of 1.8% (one and eight-tenths percent) percent of the average final compensation of said member, as defined in Section A8.587-1 for each year of credited service, if such retirement allowance exceeds 40 percent of his or her average final compensation; otherwise 1.8% (one and eight-tenths percent) percent of his or her average final compensation multiplied by the number of years of city service which would be credited to him or her were such city service to continue until attainment by him or her of age 60, but such retirement allowance shall not exceed 40 percent of such average final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other

position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him or her during the one year immediately preceding his or her retirement. Part-time service and compensation shall be converted to full-time service and compensation in the manner prescribed by the board of supervisors, and when so converted shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring members under this section may be brought before the retirement board on said board's own motion, by the retirement board's executive director on its behalf, by said member, by his or her department head or by his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to service in the position or classification he or she occupied at the time of his or her retirement.

A8.587-4 NO ADJUSTMENT FOR COMPENSATION PAYMENTS

No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

A8.587-5 DEATH BENEFIT

If a member shall die, before retirement:

(a) If no benefit is payable under subsection (b) of this section:

(1) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.

(2) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.

(b) If, at the date of his or her death, he or she was qualified for service retirement by reason of service and age under the provisions of Section A8.587-2, and he or she has designated as beneficiary his or her surviving spouse, who was married to him or her for at least one full year immediately prior to the date of his or her death, one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service on the date of his or her death shall be paid to such surviving spouse who was his or her designated beneficiary at the date of his or her death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying

or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subsection (b), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subsection (b) is less than the benefit which was otherwise payable under Subsection (a) of this section, the amount of said benefit payable under Subsection (a) less an amount equal to the total of the payments of allowance made pursuant to this Subsection (b) shall be paid in a lump sum as follows:

(1) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(2) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subsection (a) of this section in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years may make the election herein provided before any benefit has been paid under this section, for and on behalf of such children if in his or her judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this section, any allowance payable under this Subsection (b) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

Upon the death of a member after retirement, an allowance, in addition to the death benefit provided in the immediately preceding paragraph, shall be paid to his or her surviving spouse, until such surviving spouse's death or remarriage, equal to one-half of his or her retirement allowance as it was prior to optional modification and prior to reduction as provided in Subsection (a) of Section A8.514 of this charter, but exclusive of the part of such allowance which was pro-

vided by additional contributions. No allowance, however, shall be paid under this paragraph to a surviving spouse unless such surviving spouse was married to said member at least one year prior to his or her retirement. If such retired person leaves no such surviving spouse, or if such surviving spouse should die or remarry before every child of such deceased retired person attains the age of 18 years, the allowance which such surviving spouse would have received had he or she lived and not remarried shall be paid to retired person's child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years.

A8.587-6 BENEFITS UPON TERMINATION OF MEMBERSHIP

Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that, if such member is entitled to be credited with at least five years of service, he or she shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his or her accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his or her accumulated contributions. At or after 50 years of age, he or she shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions and an equal amount of the contributions of the city and county, plus 1.667% (one and two-thirds percent) percent of his or her average final compensation for each year of service credited to him or her as rendered prior to his or her first membership in the retirement system. Upon the death of such member prior to retirement, his or her contributions with interest credited thereon shall be paid to his or her estate or designated beneficiary.

A8.587-7 COMPUTATION OF SERVICE

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(a) For miscellaneous officers and employees on November 7, 2000 who were members of the retirement system under Section A8.584, time during which said officers and employees were members under Section A8.584.

(b) Time during which said member is a member of the retirement system under Section A8.587 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(c) Service in the fire and police departments which is not credited as service as a member under Section A8.587 shall count under this section upon transfer of a member of either of such departments to employment entitling him or her to membership in the retirement system under Section A8.587, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his or her service in either of such departments at the compensation he or she received in such departments.

(d) Prior service, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.

(e) Prior service determined and credited as prescribed by the board of supervisors.

(f) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(g) Time during which said member is absent from a status included in Subsections (a), (b) or (c) and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of Section A8.520 or Section A8.521 of the charter.

A8.587-8 SOURCES OF FUNDS

All payments provided for members under Section A8.587 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.587 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section A8.587, or shall be paid to said member or his or her estate or beneficiary as provided in Sections A8.587-5 and A8.587-6. A member's individual account under Section

A8.587 shall include all monies credited to the member's account under Section A8.584.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.587-8, to provide the benefits payable to members under Section A8.587. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.587, said percentage to be the ratio of the value as of the latest periodical actuarial valuation of the benefits thereafter to be paid to or on account of members under Section A8.587 from contributions of the city and county, less the amount of such contributions, plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuations and investigations shall be made at least every two years.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section A8.587 shall be a part of the fund in which all other assets of said system are included.

A8.587-9 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section A8.587-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.587-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the city and county shall, upon his or her removal from office or employment, pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section A8.587-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the retirement system an

annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

A8.587-10 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section A8.511 of this charter and Subsection (b) of this section, no person retired as a member under Section A8.587 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall not be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said service does not exceed 120 working days or 960 hours per fiscal year.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section A8.587, he or she shall re-enter membership under Section A8.587 and his or her retirement allowance shall be cancelled immediately upon such re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contribution of such member shall be the same as that for other members under Section A8.587. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(4) The provisions of Subsection (a) shall not prevent such retired persons from employment which requires coverage under the Public Employees' Retirement System or the State Teachers' Retirement System.

A8.587-11 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section A8.587 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this charter.

A8.587-12 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections A8.587 through A8.587-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

A8.587-13 APPLICATION OF PLAN

The provisions of Section A8.587 and Section A8.587-1 through A8.587-13 shall not apply to any members of the Retirement System under Section A8.584 who retired or died before November 7, 2000 or to their continuants.

Section 1. The San Francisco Charter is hereby amended, by adding Section 16.108, to read as follows:

SEC. 16.108. CHILDREN’S FUND.

(a) Fund for Children’s Services. Operative July 1, 2001, there is hereby established a fund to expand children’s services, which shall be called the Children’s Fund (“Fund”). Monies in the Fund shall be expended or used only to provide services for children as provided in this section.

(b) Goals. The goals of expenditures from the Fund shall be:

(1) To ensure that San Francisco’s children are healthy, ready to learn, succeed in school and live in stable, safe, and supported families and communities;

(2) To reach children in all neighborhoods;

(3) To the maximum extent reasonable, to distribute funds equitably among services for infants and preschoolers, elementary school age children and adolescents;

(4) To focus on the prevention of problems and on supporting and enhancing the strengths of children, youth and their families;

(5) To strengthen collaboration between the City and County of San Francisco and the San Francisco Unified School District;

(6) To fill gaps in services and to leverage other resources whenever feasible; and

(7) To foster projects initiated by San Francisco youth.

(c) Amount. There is hereby set aside for the Fund, from the revenues of the property tax levy, revenues in an amount equivalent to an annual tax of three cents (\$.03) per one hundred dollars (\$100) of assessed valuation for each fiscal year beginning with July 1, 2001–June 30, 2002, and ending with July 1, 2015–June 30, 2016. If the 2010 U.S. Census shows that children make up a percentage of the population of the City and County that is at least two percentage points more than their percentage as shown in the 2000 U.S. Census, then the amount of the property tax levy set aside under this section shall be increased for each fiscal year beginning after publication of the 2010 Census. The increase shall be in an amount equal to: one-quarter cent (\$.0025) per one hundred dollars of assessed valuation, for each two full percentage points of increase in the percentage of the City and County population that is made up of children. The Fund shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation.

(d) New Services. Monies in the Fund shall be used exclusively for the costs of services to children less than 18 years old provided as part of programs that predominantly serve children less than 18 years old, above and beyond services funded from sources other than the previous Children’s Fund prior to July 1, 2001.

To this end, monies from the Fund shall not be appropriated or expended for services that received any of the funds included in the higher of the Controller's baseline budget covering July 1, 2000–June 30, 2001 appropriations, or the Controller's baseline budget covering July 1, 1999–June 30, 2000 appropriations, whether or not the cost of such services increases. Nor shall monies from the Fund be appropriated or expended for services that substitute for or replace services included or partially included in the higher of the two baseline budgets, except and solely to the extent that the City ceases to receive federal, state or private agency funds that the funding agency required to be spent only on those services. The Controller's baseline budget shall mean the Controller's calculation of the actual amount of City appropriations for services for children that would have been eligible to be paid from the Fund but are paid from other sources.

(e) Eligible Services. Services for children eligible for Fund assistance shall include only:

- (1) Affordable child care and early education;
- (2) Recreation, cultural and after-school programs, including without limitation, arts programs;
- (3) Health services, including prevention, education, mental health, and prenatal services to pregnant women;
- (4) Training, employment and job placement;
- (5) Youth empowerment and leadership development;
- (6) Youth violence prevention programs;
- (7) Youth tutoring and educational enrichment programs; and
- (8) Family and parent support services for families of children receiving other services from the Fund.

(f) Excluded Services. Notwithstanding subsection (e), services for children paid for by the Fund shall not include:

- (1) Services provided by the Police Department or other law enforcement agencies, courts, the District Attorney, Public Defender, City Attorney; or the Fire Department; detention or probation services mandated by state or federal law; or public transportation;
- (2) Any service that benefits children incidentally or as members of a larger population including adults;
- (3) Any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure;
- (4) Acquisition of any capital item not for primary and direct use by children;
- (5) Acquisition (other than by lease for a term of ten years or less) of any real property; or
- (6) Maintenance, utilities or any similar operating costs of any facility not used primarily and directly by children, or of any recreation or park facility (including a zoo), library, or hospital.

(g) **Baseline.** The Fund shall be used exclusively to increase the aggregate City appropriations and expenditures for those services for children that are eligible to be paid from the Fund (exclusive of expenditures mandated by state or federal law). To this end, the City shall not reduce the amount of such City appropriations for eligible services (not including appropriations from the Fund and exclusive of expenditures mandated by state or federal law) in any of the fifteen years during which funds are required to be set aside under this section below the amount so appropriated for the fiscal year 2000–2001 (“the base year”) as set forth in the Controller’s baseline budget, as adjusted (“the base amount”). The base amount shall be adjusted for each year after the base year by the Controller based on calculations consistent from year to year by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenue, the Controller shall only include revenues received by the City and County that are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. The method used by the Controller to determine discretionary revenues shall be consistent with method used by the Controller to determine the Library and Children’s Baseline Calculations dated June 20, 2000, which the Controller shall place on file with the Clerk of the Board in File No. 000952. Errors in the Controller’s estimate of discretionary revenues for a fiscal year shall be corrected by an adjustment in the next year’s estimate. Within 90 days following the end of each fiscal year through 2014–2015, the Controller shall calculate and publish the actual amount of City appropriations for services for children that would have been eligible to be paid from the Fund but are paid from other sources, separately identifying expenditures mandated by state or federal law.

(h) **Three-Year Planning Cycle.** To provide time for community participation and planning, and to ensure program stability, appropriations from the Fund for all fiscal years beginning after June 30, 2004 shall be made pursuant to a three-year planning cycle as set forth in subsections (h) through (l). During every third fiscal year beginning with the 2001–2002 fiscal year, the City shall prepare a Community Needs Assessment to determine services eligible to receive moneys from the Fund. During every third fiscal year beginning with the 2002–2003 fiscal year, the City shall prepare a Children’s Services and Allocation Plan (“the Plan”), based on the Community Needs Assessment approved during the previous year. The Board of Supervisors may modify an existing Community Needs Assessment or Plan, provided that any modification shall occur only after a noticed public hearing. All appropriations from the Fund shall be consistent with the most recent Plan, provided that the Board of Supervisors may approve an amendment to the Plan at the same time it approves an appropriation.

(i) **Community Needs Assessment and Children’s Services and Allocation Plan.**

(1) The Community Needs Assessment and the Plan shall be in writing, shall be made available to the public in draft form not later than January 31 of each

fiscal year in which they are required, shall be presented by March 31 of each such fiscal year to the commissions listed in subsection (m)(3) for review and comment, and by April 30 of each such fiscal year shall be presented to the Board of Supervisors for approval.

(2) Prior to preparation of each draft Community Needs Assessment, the City shall hold at least one public hearing in each geographical area defined in Charter Section 13.110. The City shall also make available opportunities for parents, youth, and agencies receiving monies from the Fund to provide information for the Community Needs Assessment. The Community Needs Assessment shall include the results of a citywide survey of parents and youth to be conducted by the Controller every three years.

(3) The Plan shall include all services for children furnished or funded by the City or funded by another governmental or private entity and administered by the City, whether or not they received or may receive monies from the Fund. The Plan shall be outcome-oriented and include goals, measurable and verifiable objectives and measurable and verifiable outcomes.

(4) The Plan shall state how all services receiving money from the Fund will be coordinated with other children's services. The Plan shall specify amounts of funding to be allocated: (i) toward achieving specified goals, measurable and verifiable objectives and measurable and verifiable outcomes, (ii) to specified service models; and (iii) for specific populations and neighborhoods. The Plan shall also state the reasons for the allocations and demonstrate how the allocations are consistent with the Community Needs Assessment. A minimum of three percent of the funding allocated under the Plan shall be for youth-initiated projects.

(j) Evaluation. The Plan shall include an evaluation of services that received money from the Fund at any time during the last three fiscal years. The evaluation shall involve those who use the funded services and other parents and youth.

(k) Failure of Board to Act. If the Board of Supervisors has not approved a Community Needs Assessment before the first day of the fiscal year during which the Plan is to be prepared, the Plan shall be based on the Community Needs Assessment as originally submitted to the Board of Supervisors.

(l) Selection of Contractors. Except for services provided by City employees, the Fund shall be expended through contractors selected based on their responses to one or more requests for proposals issued by the City. The City shall award contracts to coincide with the City's fiscal year starting July 1.

(m) Implementation.

(1) In implementation of this section, facilitating public participation and maximizing availability of information to the public shall be primary goals.

(2) So long as there exists within the executive branch of City government a Department of Children, Youth and Their Families, or an equivalent department or agency as its successor, that department shall administer the Children's Fund and prepare the Community Needs Assessment and the Plan pursuant to this section.

If no such department or agency exists, the Mayor shall designate a department or other City body to administer the Children's Fund pursuant to this section.

(3) In addition to all other hearings otherwise required, the Recreation and Park, Juvenile Probation, Youth, Health and Human Services Commissions shall each hold at least one separate or joint hearing each fiscal year to discuss issues relating to this section. The Department of Children, Youth and Their Families, or other agency as described above in subsection (m)(2), shall consult with the Recreation and Park Department, Arts Commission, Juvenile Probation Department, Unified School District, Health Department, Department of Human Services, Commission on the Status of Women, Police Department, Library Department and Municipal Transportation Agency in preparation of portions of the Community Needs Assessment and the Plan that relate to their respective activities or areas of responsibility.

(4) The Board of Supervisors may by ordinance implement this section.

(n) Advisory Committee. There shall be a Children's Fund Citizens' Advisory Committee ("the Committee") that shall consist of 15 members, each appointed by the Mayor to a three-year term, to serve at the Mayor's pleasure. At least three members of the Committee shall be parents and at least three members shall be less than 18 years old at the time of appointment. For each of the following areas, there shall be at least one Committee member with professional expertise in that area: early childhood development, childcare, education, health, recreation and youth development. The Committee shall meet at least quarterly, and shall advise the department or agency that administers the Children's Fund and the Mayor concerning the Children's Fund. The Committee shall convene by July 1, 2001. Each member of the Committee shall receive copies of each proposed Community Needs Assessment and each Plan (including the evaluation required as part of the Plan). Members of the Committee shall serve without pay, but may be reimbursed for expenses actually incurred.

(o) Unspent Funds. All unspent funds in the Children's Fund created by former Charter Section 16.108 shall be transferred to the Children's Fund established herein.

(p) Effect of Procedural Errors. No appropriation, contract or other action shall be held invalid or set aside by reason of any error, including without limitation any irregularity, informality, neglect or omission, in carrying out procedures specified in subsections (h) through (n) unless a court finds that the party challenging the action suffered substantial injury from the error and that a different result would have been probable had the error not occurred.

Section 2. Effective July 1, 2001, the San Francisco Charter is hereby amended by repealing Section 16.108.

Section 1. The charter is hereby amended to read:

A8.428 HEALTH SERVICE SYSTEM FUND

There is hereby created a health service system fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons. A retired person as used in this section means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System, and the surviving spouse or surviving domestic partner of an active employee and the surviving spouse or surviving domestic partner of a retired employee, provided that the surviving spouse or surviving domestic partner and the active or retired employee have been married or registered as domestic partners for a period of at least one year prior to the death of the active or retired employee.

The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

(a) All funds necessary to efficiently administer the health service system.

(b) The city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to "the average contribution," as certified by the health service board in accordance with the provisions of Section A8.423.

(c) Monthly contributions required from retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons participating in the system shall be equal to the monthly contributions required from members in the system for health coverage—excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining, with the following modifications:

(1) the total contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare;

(2) because the monthly cost of health coverage for retired persons may be higher than the monthly cost of health coverage for active employees, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons as is provided for active

employee members excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining;

(3) after application of subsection (c) and subsections (c) (1) and (c) (2), the city and county, the school district and the community college district shall contribute 50% of retired persons' remaining monthly contributions.

(d) The city and county, the San Francisco Unified School District and the San Francisco Community College District shall contribute to the health service system fund 50% of the monthly contributions required for the first dependent of retired persons in the system. Except as hereinbefore set forth, the city and county, the San Francisco Unified School District and the San Francisco Community College District shall not contribute to the health service system fund any sums on account of participation in the benefits of the system by members' dependents, except surviving spouses and surviving domestic partners, retired persons' dependents, except surviving spouses and surviving domestic partners, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System; resigned employees and teachers defined in Section A8.425, and any employee whose compensation is fixed in accordance with Sections A8.401, A8.403, or A8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the city and county, the San Francisco Unified School District and the San Francisco Community College District hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 7, 2000 shall be effective July 1, 2001.

Section 2. The Clerk of the Board of Supervisors is hereby authorized to recodify and make clerical changes to this amendment as may be necessary.

Certified to be a true copy by Tom Ammiano, President of the Board of Supervisors, and Gloria L. Young, Board of Supervisors Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 2—City of Santa Monica

Amendments to the Charter of the City of Santa Monica

[Filed with the Secretary of State January 8, 2001.]

The Santa Monica City Charter shall be amended by the addition of Article XXII, to read as follows:

ARTICLE XXII. TAXPAYER PROTECTION**Section 2200. Title**

This Article shall be known as the City of Santa Monica Taxpayer Protection Amendment of 2000.

Section 2201. Findings and Declarations

(a) The people of the City of Santa Monica (“City”) find that the use or disposition of public assets are often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.

(b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public ‘decision makers’. The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.

(c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

Section 2202. Definitions

(a) As used herein, the term public benefit does not include public employment in the normal course of business for services rendered, but includes a contract, benefit, or arrangement between the City and any individual, corporation, firm, partnership, association, or other person or entity to:

(1) provide personal services of a value in excess of \$25,000 over any 12 month period,

(2) sell or furnish any material, supplies or equipment to the City of a value in excess of \$25,000 over any 12 month period,

(3) buy or sell any real property to or from the City with a value in excess of \$25,000, or lease any real property to or from the City with a value in excess of \$25,000 over any 12 month period,

(4) receive an award of a franchise to conduct any business activity in a territory in which no other competitor potentially is available to provide similar and competitive services, and for which gross revenue from the business activity exceeds \$50,000 in any 12 month period,

(5) confer a land use variance, special use permit, or other exception to a pre-existing master plan or land use ordinance pertaining to real property where such decision has a value in excess of \$25,000,

(6) confer a tax abatement, exception, or benefit not generally applicable of a value in excess of \$5,000 in any 12 month period,

(7) receive cash or specie of a net value to the recipient in excess of \$10,000 in any 12 month period.

(b) Those persons or entities receiving public benefits as defined in Section 2202(a)(1)-(7) shall include the individual, corporation, firm, partnership, association, or other person or entity so benefiting, and any individual or person who, during a period where such benefit is received or accrues,

(1) has more than a ten percent (10%) equity, participation, or revenue interest in that entity, or

(2) who is a trustee, director, partner, or officer of that entity.

(c) As used herein, the term personal or campaign advantage shall include:

(1) any gift, honoraria, emolument, or personal pecuniary benefit of a value in excess of \$50;

(2) any employment for compensation;

(3) any campaign contributions for any elective office said official may pursue.

(d) As used herein, the term public official includes any elected or appointed public official acting in an official capacity.

Section 2203. City Public Official Shall Not Receive Personal or Campaign Advantage From Those To Whom They Allocate Public Benefits

(a) No City public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 2202(a) may receive a personal or campaign advantage as defined in Section 2202(c) from

a person as defined in Section 2202(b) for a period beginning on the date the official approves or votes to approve the public benefit, and ending no later than

(1) two years after the expiration of the term of office that the official is serving at the time the official approves or votes to approve the public benefit;

(2) two years after the official's departure from his or her office whether or not there is a pre-established term of office; or

(3) six years from the date the official approves or votes to approve the public benefit; whichever is first.

(b) Section 2203(a) shall also apply to the exercise of discretion of any such public official serving in his or her official capacity through a redevelopment agency, or any other public agency, whether within or without the territorial jurisdiction of the City either as a representative or appointee of the City.

Section 2204. Applicable Public Beneficiaries Section. Responsibilities of City Public Officials and Advantage Recipients

(a) City public officials shall practice due diligence to ascertain whether or not a benefit defined under Section 2202(a) has been conferred, and to monitor personal or campaign advantages enumerated under Section 2202(c) so that any such qualifying advantage received is returned forthwith, and no later than ten days after its receipt.

(b) City public officials shall provide, upon inquiry by any person, the names of all entities and persons known to them who respectively qualify as public benefit recipients under the terms of Sections 2202 and 2203.

Section 2205. Disclosure of the Law

The City shall provide any person, corporation, firm, partnership, association, or other person or entity applying or competing for any benefit enumerated in Section 2202(a) with written notice of the provisions of this Article and the future limitations it imposes. Said notice shall be incorporated into requests for 'proposal', bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City.

Section 2206. Penalties and Enforcement

(a) In addition to all other penalties which might apply, any knowing and willful violation of this Article by a public official constitutes a criminal misdemeanor offense.

(b) A civil action may be brought under this Article against a public official who receives a personal or campaign advantage in violation of Section 2203. A finding of liability shall subject the public official to the following civil remedies:

(1) restitution of the personal or campaign advantage received, which shall accrue to the general fund of the City;

(2) a civil penalty of up to five times the value of the personal or campaign advantage received;

(3) injunctive relief necessary to prevent present and future violations of this Article;

(4) disqualification from future public office or position within the jurisdiction, if violations are willful, egregious, or repeated.

(c) A civil action under subdivision (b) of this section may be brought by any resident of the City. In the event that such an action is brought by a resident of the City and the petitioner prevails, the respondent public official shall pay reasonable attorney's fees and costs to the prevailing petitioner. Civil penalties collected in such a prosecution shall accrue 10% to the petitioner, and 90% to the City's general fund.

Section 2207. Severability

If any provision of this Article is held invalid, such invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalidated provision, and to this end the provisions of this Article are severable.

Certified to be a true copy by Ken Genser, Mayor, and Maria M. Stewart, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 3—City of Santa Monica

Amendments to the Charter of the City of Santa Monica

[Filed with the Secretary of State January 8, 2001.]

Section 620 is amended to read as follows:

Section 620. Ordinances. Violation. Penalty.

A violation of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance shall be the sum of Five Hundred Dollars (\$500.00), or a term of imprisonment for a period not exceeding six (6) months, or both such fine and imprisonment. The City Council may provide by ordinance that persons imprisoned in the City Jail for violation of law or ordinance may be compelled to labor on public works. This Section does not limit the City's power to establish civil penalties or fines by ordinance.

Certified to be a true copy by Ken Genser, Mayor, and Maria M. Stewart, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 4—City of San Luis Obispo

Amendments to the Charter of the City of San Luis Obispo

[Filed with the Secretary of State January 9, 2001.]

Section 1107. Impartial and Binding Arbitration For San Luis Obispo Police Officers Association and San Luis Obispo Firefighters Association, IAFF Local 3523, Employee Disputes.

(a) Declaration of Policy. It is hereby declared to be the policy of the City of San Luis Obispo that strikes by firefighters and police officers are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

(b) Prohibition Against Strikes. No City of San Luis Obispo firefighter or police officers shall willfully engage in a strike against the City. Any such employee against whom the City brings charges of failing to report for work as part of a strike shall be subject to dismissal from his or her employment in the event the charges are sustained upon conclusion of the proceedings that are required by law for the imposition of disciplinary action upon said employee.

(c) Obligation to Negotiate in Good Faith. The City, through its duly authorized representatives, shall negotiate in good faith with the San Luis Obispo Police Officers Association and/or the San Luis Obispo Firefighters Association, IAFF Local 3523, as the exclusive representatives of representation units comprised solely of employees of the police department and/or the fire department, as such units are currently constituted or as they may be amended through negotiation or arbitration as provided in this section, on all matters relating to the wages, hours, and other terms and conditions of City employment. Unless and until agreement is reached through negotiations between authorized representatives of the City and said employee organization or organizations or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for employees represented by the San Luis Obispo Police Officers Association and/or the San Luis Obispo Firefighters Association, IAFF Local 3523, shall be altered, eliminated or changed.

(d) Impasse Resolution Procedures.

(1) All disputes, controversies and grievances pertaining to wages, hours or terms and conditions of City employment which remain unresolved after good faith negotiations between the City and said employee organization shall be submitted to a three member Board of Arbitrators upon the declaration of an impasse by the City or by said employee organization. Upon declaration of impasse by either party, the City and employee organization shall each exchange a written last offer of settlement on each of the issues remaining in dispute. Written last offer of settlement shall be exchanged between parties within two days of the declaration of impasse.

(2) Representatives designated by the City and representatives of the employee organization shall each select and appoint one arbitrator to the Board of Arbi-

trators within three (3) business days after either party has notified the other, in writing, of the declaration of impasse and the desire to proceed to arbitration. The third member of the Board of Arbitrators shall be selected by agreement between the City's and the employee's organization representative within ten (10) business days of the declaration of impasse. This third member shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and the employee organization cannot agree upon the selection of the neutral arbitrator within ten (10) business days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) to act as the third arbitrator, they shall have five (5) business days to alternately strike names, with the City's arbitrator striking first, from the list of nominees until one name remains and that person shall then become the neutral arbitrator and Chairperson of the Board of Arbitrators.

(3) Any arbitration proceeding convened pursuant to this Article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The Board of Arbitrators shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Board of Arbitrators may adopt by unanimous consent such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(4) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the Board of Arbitrators shall direct each of the parties to submit, within such time limit as the Board of Arbitrators may establish, but not to exceed thirty (30) business days, a last offer of settlement on each of the remaining issues in dispute. The Board of Arbitrators shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to the following: changes in the average consumer price index for goods and services using the San Francisco-Oakland-San Jose index, as reported at the time impasse is declared for the preceding twelve (12) months, the wages, hours, benefits and terms and conditions of employment of employees performing similar services in comparable cities; and the financial condition of the City of San Luis Obispo and its ability to meet the costs of the decision of the Board of Arbitrators.

(5) After reaching a decision, the Board of Arbitrators shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Board of Arbitrators shall not be publicly disclosed and shall not be binding until ten (10) days

after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the Board of Arbitrators. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of Board of Arbitrators, as it may be modified or amended by the parties, shall be publicly disclosed and shall be binding on the parties. The City and the employee organization shall take whatever action is necessary to carry out and effectuate the arbitration award. No other actions by the City Council or by the electorate to conform or approve the decision of the Board of Arbitrators shall be permitted or required.

(6) The expenses of any arbitration proceeding convened pursuant to this Article, including the fee for the services of the chairperson of the Board of Arbitrators and the costs of preparation of the transcript of the proceedings shall be borne equally by the parties. The expenses of the arbitration, which the parties may incur individually, are to be borne by the party incurring such expenses. Such expenses include, but are not limited to, the expense of calling a party's witnesses, the costs incurred in gathering data and compiling reports, and any expenses incurred by the party's arbitrator. The parties may mutually agree to divide the costs in another manner.

(7) The proceedings described herein shall supercede the dispute resolution process for the San Luis Obispo Police Officers Association and the San Luis Obispo Firefighters Association which is set forth in Sections 13.2 and 14.1 of City of San Luis Obispo Resolution No. 6620, to the extent that such language is in conflict with this amendment. Furthermore, the proceedings described herein shall supercede any language within the Employer-Employee Resolution, the Personnel Rules and Regulations, any Memorandum of Agreement with the employee associations or any written policy or procedure relating to wages, hours or other terms and conditions of City employment, to the extent that such language is in conflict with this amendment. However, nothing in this section shall preclude the parties from mutually agreeing to use dispute resolution processes other than the binding arbitration process herein set forth. Nor, does it preclude the parties from negotiating, and submitting to the arbitration process set forth herein, a grievance process, which includes a form of binding arbitration that differs from the one, set forth herein.

Certified to be a true copy by Lee Price, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 5—City of San Leandro

Amendments to the Charter of the City of San Leandro

[Filed with the Secretary of State January 26, 2001.]

**ARTICLE II. CITY COUNCIL: MEMBERSHIP, COMPENSATION AND
ARTICLE VI. ELECTIONS**

Section 1. Section 225(b) is renumbered to Section 225(c) and Section 225(c) of the City Charter is amended to Section 225(d).

Section 2. A new Section 225(b) is added to read as follows:

The candidate receiving the highest number of votes for the offices of Mayor and Council Members of the City shall be elected to such offices, provided that such candidate receives at least 50% plus one of the votes cast for each such office. In the event that no candidate for such elective office of the City receives at least 50% plus one of the votes cast for that office, the City Council shall provide for a run-off vote to determine the person elected. The City Council shall adopt an ordinance establishing a run-off system. The run-off system may include mailed ballots, an instant run-off voting system when such technology is available to the City, or a special run-off election. The ordinance setting forth the run-off system may be amended from time to time for any reason, but no amendment to the ordinance may take effect less than 103 days prior to any municipal election.

Section 3. Section 235 is amended to read as follows:

Council Members and the Mayor shall hold office for four years. The term of office shall commence thirty-five days after the General Municipal Election. If a run-off is required pursuant to Section 225(b) of this Charter, the term of office for all offices voted on during that General Municipal Election shall commence thirty-five days after the run-off is held.

Section 4. Section 600 is amended to delete the sentence:

Such ordinance shall also provide for the date of commencement of terms of office following the consolidated General Municipal election.

Certified to be a true copy by Gayle Petersen, City Clerk.

Date of Election: November 7, 2000.

Charter Chapter 6—City of Chula Vista

Amendment to the Charter of the City of Chula Vista

[Filed with the Secretary of State February 6, 2001.]

Section 602 is amended to read as follows:

Sec. 602. Appointments; Terms and Vacancies.

(a) Appointments and Terms. The members of each of such boards or commissions shall be appointed, and shall be subject to removal, by motion of the City

Council adopted by at least three affirmative votes. The members thereof shall serve for a term of four (4) years and until their respective successors are appointed and qualified. Members of such boards and commissions shall be limited to a maximum of two (2) consecutive terms and an interval of two (2) years must pass before a person who has served two (2) consecutive terms may be reappointed to the body upon which the member had served; provided, further, that for the purpose of this section, an appointment to fill an initial term or an unexpired term of less than two (2) years in duration shall not be considered as a term; however, any appointment to fill an initial term or an unexpired term in excess of two (2) years shall be considered to be a full term.

(b) Initial Classification of Appointees. The members first appointed to such boards and commissions shall so classify themselves by lot so that each succeeding July 1st the term of one (1) of their number shall expire. If the total number of members of such body to be appointed exceeds four (4), the classification by lot shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one (1) member shall expire on each succeeding July 1st.

(c) Vacancies. Vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the City Council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission is absent from three (3) regular meetings of such body consecutively, unless by permission of such board or commission expressed in its official minutes, or is convicted of a felony or crime involving moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the City Council.

(d) Eligibility. All members of boards and commissions shall be qualified electors in the City of Chula Vista with the exception of Youth Commissioners who need only be residents of the City of Chula Vista. The City Council may appoint non-electors of the City of Chula Vista to those boards and commissions which are advisory only and whose duties involve regional issues. Appointment of non-electors must be passed by at least four affirmative votes. No person may be appointed nor shall serve on more than one of the Charter-created boards or commissions simultaneously.

Certified to be a true copy by Shirley Horton, Mayor, and Susan Bigelow, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 7—City of Anaheim

Amendments to the Charter of the City of Anaheim

[Filed with the Secretary of State February 6, 2001.]

Articles I, II and III, in their entirety, is amended to read as follows:

ARTICLE I
NAME OF CITY

Section 100. NAME.

The City of Anaheim, hereinafter termed the City, shall continue to be a municipal corporation under its present name of “City of Anaheim.”

ARTICLE II
BOUNDARIES

Section 200. BOUNDARIES.

The boundaries of the City shall be as now established until changed in the manner authorized by law.

ARTICLE III
RIGHTS, LIABILITIES AND SUCCESSION

Section 300. RIGHTS AND LIABILITIES.

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed and controlled by it on the effective date of this Charter and shall continue to be subject to all its lawfully enforceable debts, obligations, liabilities and contracts.

Section 301. ORDINANCES, RESOLUTIONS AND OTHER REGULATIONS.

All lawful ordinances, resolutions, rules and regulations in force on the effective date of this Charter, and not in conflict or inconsistent herewith, shall continue in force until duly repealed, amended, changed or superseded.

Section 302. RIGHTS OF OFFICERS AND EMPLOYEES PRESERVED.

Unless otherwise specifically provided in this Charter, nothing contained herein shall affect or impair the personnel, pension, or retirement rights or privileges of officers or employees of the City which rights or privileges existed on the effective date of this Charter or any amendments hereto.

Section 303, 304, 305 and 306 of Article III is repealed.

Section 500 of Article V is amended to read as follows:

Section 500. CITY COUNCIL. TERMS.

The elective officers of the City shall consist of a Mayor and four City Council members elected from the City at large and at the times and in the manner provided in this Charter who shall serve for a term of four years and until their respective successors qualify. The term “City Council,” “legislative body,” or other similar terms as used in this Charter or any other provision of law shall be deemed to refer to the collective body composed of the Mayor and four City Council members unless such other provision of this charter or other provision of

law expressly provides to the contrary or unless such interpretation would be clearly contrary to the intent and context of such other provision.

The Mayor and members of the City Council in office at the time this Charter provision takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. The Mayor and two members of the City Council shall be elected at the general municipal election held in November, 1994, and each fourth year thereafter. Two members of the City Council shall be elected at the general municipal election held in November, 1996, and each fourth year thereafter.

Ties in voting among candidates for office, including the office of the Mayor, shall be settled by the casting of lots.

Section 501 of Article V is amended to read as follows:

Section 501. ELIGIBILITY.

No person shall be eligible to hold office as the Mayor or a member of the City Council unless he or she is and shall have been a resident and qualified elector of the City at the time of, and for the thirty-day period immediately preceding, filing of his or her nominating papers or such other equivalent declaration of candidacy as may be required or authorized by law, or at the time of, and for the thirty-day period immediately preceding, his or her appointment to such office.

No employee of the City of Anaheim shall be eligible to hold office as the Mayor or as a member of the City Council. An employee of the City of Anaheim shall resign from such employment prior to being sworn into office as an elected or appointed member of the City Council or as the Mayor. If such employee does not resign his or her employment with the City prior to being sworn into office, such employment shall automatically terminate upon his or her being sworn into office.

Section 504 of Article V is amended to read as follows:

Section 504. MAYOR.

The Mayor shall have the same rights, privileges, powers and duties as are held by members of the City Council and shall be regarded as a member of the City Council for all purposes except to the extent expressly inconsistent with any other provision of this Charter or other applicable law.

The Mayor may make and second motions and shall have a voice and vote in all proceedings of the City Council. The Mayor shall be the official head of the City for ceremonial purposes. The Mayor shall have the primary, but not the exclusive, responsibility for communicating the policies, programs and needs of the City government to the people, and as occasion requires, he or she may inform the people of any major change in policy or program. The Mayor shall perform such other duties consistent with his or her office as may be prescribed by this Charter or as may be imposed by the City Council.

The Mayor shall serve for a term of four years and until his or her successor is elected and qualified.

The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability.

Notwithstanding any other provision of this Charter to the contrary, no person shall file nominating papers, or other equivalent declaration of candidacy as may be required or authorized by law, for election to both the office of Mayor and member of the City Council at the same election. The City Clerk shall reject, refuse to accept for filing, and otherwise refuse to process any such nominating papers or other declaration of candidacy for the office of Mayor or City Council member where such person has previously filed nominating papers or a declaration of candidacy for election to the office of Mayor or City Council member at the same election. In the event a person seeks to simultaneously file nominating papers or declarations of candidacy for election to both the offices of Mayor and member of the City Council at the same election, the City Clerk shall reject, refuse to accept for filing, and otherwise refuse to process all such nominating papers or declarations of candidacy simultaneously tendered.

Section 507 of Article V is amended to read as follows:

Section 507. SPECIAL MEETINGS.

A special meeting may be called at any time by the Mayor, or by three members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. Such written notice may be dispensed with as to any person entitled thereto who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any person who is actually present at the meeting at the time it convenes.

Section 508 of Article V is amended to read as follows:

Section 508. PLACE OF MEETINGS.

Except to the extent otherwise required or permitted by law, all meetings shall be held in the Council Chambers of the City Hall, or in such place within the City to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by three members of the City Council.

Section 509 of Article V is amended to read as follows:

Section 509. QUORUM. PROCEEDINGS.

A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all

the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered to each council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council. The City Council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or refer any member or other person for prosecution for disorderly conduct at any of its meetings.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Voting on all matters which come before the Council shall be by voice or visual means wherein the vote of each member may be ascertained. At the demand of any member, and upon the adoption of any ordinance, resolution, or order for the payment of money, the City Clerk shall call the roll and shall cause the ayes and noes taken on such questions to be entered in the minutes of the meeting.

Section 510 of Article V is amended to read as follows:

Section 510. CITIZEN PARTICIPATION.

All regular and special meetings of the City Council shall be open and public and all persons shall be permitted to attend such meetings, except that the provisions of this Section shall not apply to closed sessions held pursuant to any provision of Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the Ralph M. Brown Act), or any successor statute thereto. No person shall be denied the right to be heard by the City Council on any item of interest to the public that is within the subject matter jurisdiction of the City Council, but such right shall be subject to such reasonable rules and regulations as may be authorized or adopted by ordinance.

Section 515 of Article V is amended to read as follows:

Section 515. PENALTY FOR VIOLATION OF ORDINANCES.

A violation of any ordinance of the City shall constitute a misdemeanor unless by ordinance it is made an infraction. Any such violation may be prosecuted in the name of the People of the State of California and/or may be redressed by civil action. The maximum fine or penalty for conviction of any misdemeanor shall be

the maximum fine or term of imprisonment, or both, as authorized by Section 19 of the Penal Code of the State of California, or any successor provision thereto. The maximum fine or penalty for conviction of any infraction shall be as provided by state law.

Section 703 of Article VII is amended to read as follows:

Section 703. CITY ATTORNEY. POWERS AND DUTIES.

To become and remain eligible for City Attorney, the person appointed shall be an attorney at law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least three years prior to such appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council. Except for such prosecutions as may be conducted by another public agency having jurisdiction to do so, all prosecutions pursuant to this paragraph shall be conducted by the City Attorney or by employees or persons under the direction and control of the City Attorney. The City Council shall not contract with any person or firm to act as special or independent prosecutor or otherwise appoint or designate any other person or firm to prosecute any criminal matter.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of such employment or by reason of such official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote entire time to the duties of the office.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Surrender to the successor City Attorney all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings of the City and may employ or contract with other attorneys to take charge of or assist in any civil litigation or other civil legal matters or business.

Section 705, paragraph (b) is amended to read as follows:

Section 705. CITY TREASURER. POWERS AND DUTIES.

(b) Have custody of all public funds belonging to or under the control of the City or any office, department or agency of the City government, except such funds as may be in the custody of any City office or department as expressly authorized by resolution of the City Council, and deposit or cause to be deposited all funds under his or her custody in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

Section 706, paragraph (d) is amended to read as follows:

Section 706. DIRECTOR OF FINANCE. POWERS AND DUTIES.

(d) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures, except expenditures from funds under the control of any other City office or department as expressly authorized by resolution of the City Council, to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the City government; with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges; and draw warrants upon the City Treasurer, or where such procedure is authorized by the City Council, prepare or approve wire transfers, electronic payments and checks or other negotiable instruments drawn upon a proper City depository for the approval of the City Treasurer and, where required, the signatures or facsimile signatures of the City Treasurer and the Mayor, for all claims and demands audited and approved as in this Charter provided specifying the purpose for which drawn and the fund from which payment is to be made.

Section 708 of Article VII is amended to read as follows:

Section 708. PROHIBITED FINANCIAL INTERESTS IN CONTRACTS. FORFEITURE OF OFFICE.

Any member of the City Council, city officer or employee, or member of any city board or commission, who has a financial interest in any contract made by such person in his or her official capacity, or by any body or board of which he or she is a member, in violation of Article 4 of Division 4 of Title 1 (commencing with Section 1090) of the Government Code of the State of California, or any successor provision thereto, upon conviction thereof, and in addition to any other penalty imposed for such violation, shall forfeit his or her office or position of employment with the City.

Article VIII, in its entirety, is amended to read as follows:

ARTICLE VIII.

(Left blank intentionally.)

Section numbers in Article X (with the exception of Section 1000), and all references in the City Charter to such section numbers, is amended to read as follows:

Current Number	Proposed Number
10.200	1050
10.201	1051
10.202	1052
10.203	1053

Section 1100 of Article XI is amended to read as follows:

Section 1100. RETIREMENT SYSTEM.

Authority and power are hereby vested in the City, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees' Retirement Act, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the Public Employees' Retirement System. The City Council may terminate any contract with the Board of Administration of the Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City voting on such proposition at an election at which such proposal is presented.

Section 1207 of Article XII is repealed in its entirety.

Sections 1212, 1213, 1214 and 1215 of Article XII are repealed in their entirety.

Section 1300 of Article XIII is amended to read as follows:

Section 1300. GENERAL MUNICIPAL ELECTIONS.

General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November in each even-numbered year. However, in the event the state legislature hereafter prescribes a different day for the holding of the statewide general election, general municipal elections shall be held upon such day in each even-numbered year as prescribed for the statewide general election.

Section 1501 of Article XV is amended to read as follows:

Section 1501. VIOLATIONS.

The violation of any provision of this Charter shall be a misdemeanor and shall be punishable upon conviction by a fine or imprisonment, or both, not exceeding the maximum fine or term of imprisonment, or both, as authorized by Section 19 of the Penal Code of the State of California, or any successor provision thereto.

The following sections are amended in the following manner to make all provisions GENDER NEUTRAL:

Section 503. VACANCIES.

A vacancy in the office of Mayor or on the City Council, from whatever cause arising, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his or her successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term. As used in this paragraph, the next general municipal election shall mean the next such election at which it is possible to place the matter on the ballot and elect a successor.

If the Mayor or a member of the City Council is absent from all regular meetings of the City Council for a period of thirty days consecutively from and after the last regular City Council meeting attended by such person, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be an elector of the City, his office shall become vacant. The City Council shall declare the existence of any such vacancy.

In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall cause an election to be held forthwith to fill such vacancy for the remainder of the unexpired term.

Section 600. CITY MANAGER.

There shall be a City Manager who shall be the chief administrative officer of the City. The City Manager shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council, provided, however, that he or she shall not be removed from office except as provided in this Charter. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications, with special reference to actual experience in, and knowledge of, accepted practice in respect to the duties of the office as herein set forth.

Section 602. ELIGIBILITY.

No person shall be eligible to receive appointment as City Manager while serving as a member of the City Council nor within one year after such person has ceased to be a member of the City Council.

Section 603. COMPENSATION AND BOND.

The City Manager shall be paid a salary commensurate with the responsibilities as chief administrative officer of the City, which salary shall be established by ordinance or resolution. The City Manager shall furnish a corporate surety bond conditioned upon the faithful performance of his or her duties in such form and in such amount as may be determined by the City Council, the premium on such bond to be paid by the City.

Section 604. POWERS AND DUTIES.

The City Manager shall be the chief administrative officer and head of the administrative branch of the City Government. Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions of this Charter, including the personnel provisions thereof, the City Manager shall have power and be required to:

(a) Appoint, and he or she may promote, demote, suspend or remove all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. He or she may authorize the head of any department or office to appoint or remove subordinates in such department or office. No department head shall be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and received its approval for such appointment or removal.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City for the preceding fiscal year, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may to him or her seem desirable.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, inspection, storing, inventory, distribution and disposal of all supplies, materials, equipment and services required by any office, department or agency of the City government and recommend them to the City Council for adoption by ordinance, and administer and enforce the same after adoption.

(g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City are enforced.

(h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his or her jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 605. MEETINGS.

The City Manager shall be accorded a seat at all meetings of the City Council and of all boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. The City Manager shall receive notice of all special meetings of the City Council, and of all boards and commissions.

Section 606. REMOVAL.

The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative votes of a majority of the total membership of the City Council. At least thirty days prior to the effective date of his or her removal, the City Manager shall be furnished with a written notice stating the Council's intention to remove him or her and the reasons therefor. After furnishing the City Manager with written notice of his or her intended removal, the City Council may suspend him or her from duty, but his or her compensation shall continue until his or her removal as herein provided. In removing the City Manager, the City Council shall use its uncontrolled discretion, and its actions shall be final.

Section 607. NON-INTERFERENCE WITH ADMINISTRATIVE SERVICE.

Except as otherwise provided in this Charter, neither the Council nor any of its members shall interfere with the execution by the City Manager of his or her powers and duties, or order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in the administrative service of the City, of any person to any office or employment, or his or her removal therefrom. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

Section 608. ASSISTANT CITY MANAGER.

There shall be an Assistant City Manager who shall act as the principal aide to the City Manager in the performance of his or her duties and who shall serve as Acting City Manager during the temporary absence or disability of the City Manager, except as otherwise provided in Section 609 of this Charter.

Section 609. ACTING CITY MANAGER.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as Acting City Manager during any temporary absence or disability of both the City Manager and the Assistant City Manager. If the City Manager fails to make such appointment, the City Council may appoint an officer or department head to serve as such Acting City Manager.

Section 704. CITY CLERK. POWERS AND DUTIES.

The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in records that shall bear appropriate title and be devoted to such purpose.

(b) Maintain separate records, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all books and records in his or her possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex-officio Assessor, unless the City Council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by the county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

Section 707. ADMINISTERING OATHS.

Each department head and his or her deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

Section 709. ACCEPTANCE OF OTHER OFFICE.

Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated his or her office under the City government.

Section 710. NEPOTISM.

The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Manager or any department head or other officer having appointive power appoint any of his or her relatives, or any relative of a Council member, within such degree to any such position.

Section 711. OFFICIAL BONDS.

The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible cor-

porate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, his or her superior officer or other officer or employee, or the bond of the latter, unless such superior officer, or other officer or employee is a party to, or has conspired in, the wrongful act causing directly or indirectly such loss.

Section 1201. ANNUAL BUDGET. PREPARATION BY THE CITY MANAGER.

At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the Director of Finance, estimates of revenue and expenditures for his or her department or for such board or commission for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as he or she may deem advisable.

Certified to be a true copy by Tom Daly, Mayor, and Sheryll Schroeder, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 8—City of Oakland

Amendments to the Charter of the City of Oakland

[Filed with the Secretary of State February 13, 2001.]

Section 26000(a) is added to Article XXVI to read as follows:

(a) Notwithstanding any other provision of this Article XXVI, active members of PFRS shall be permitted to terminate their membership in PFRS and become members of the California Public Employees' Retirement Systems ("PERS") (hereinafter referred to as "transfer to PERS"); provided that active members may transfer to PERS only if the following occur:

- (1) the City Council authorizes the transfer to PERS; and
- (2) the PFRS Board authorizes transfer of PFRS retirement funds representing the employer and employee contributions to PFRS for each PFRS member who exercises the option to transfer to PERS.

The decision to authorize the transfer to PERS shall be based on the City Council's sole judgment and discretion. The City shall have absolutely no obligation to authorize such transfer and the City Council's decision shall be final and binding and without recourse to a court of law, section 910 of the City Charter, which provides for binding interest arbitration, or any other administrative, contractual or legal avenue or remedy.

The decision of the PFRS Board to authorize transfer of PFRS retirement funds to PERS as described above, shall be based upon the board's sole judgment and discretion exercised in accordance with board members' fiduciary obligations, the prudent person standard, the provisions of Article XXVI of the City Charter, the California Constitution and other applicable law.

Section 2615(1) of Article XXVI is amended to read as follows:

No member of the System who is retired for service or disability under this Article shall hold an elective or appointive position in the service of the City of Oakland, including membership on Boards or Commissions, except that retired members of the Police and Fire Departments may serve on the Police and Fire Retirement Board as provided in Section 2601, nor shall any such person receive any payment for service rendered to the City, provided that service such as an election officer or juror shall not be affected by this section.

Notwithstanding any other provision of this section 2615 or this City Charter, retired members of the System may hold employment with the City pursuant to a Deferred Retirement Option Plan ("DROP") authorized by the City. DROP shall mean a program under which, after the effective date of a System member's retirement, (1) he/she continues to work for the City (a) for a period of time prescribed by the City and (b) in the position and assignment determined by the City in its sole judgment and discretion; (2) neither the City nor the System member makes retirement contributions; (3) the System member receives no service credit for the period of time he/she is employed by the City; and (4) the System member's monthly retirement allowances are paid into a fund established by PFRS until the member terminates his/her City employment. DROP is intended to encompass all types of DROP programs.

Section 107 is amended to read:

Section 107. Form of Government.

The government provided by this Charter shall be known as the Mayor-Council form of government.

Section 207 is amended to read:

Section 207. Powers of the Council.

The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers. The council shall fix the compensation of all City employees, officers and officials except as otherwise provided by the Charter.

Section 218 is amended to read:

Section 218. Non-Interference in Administrative Affairs.

Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City Manager, Mayor and other appointed or elected officers are responsible, solely through the City Manager, Mayor or

such other officers. Neither the Council nor any Council member shall give orders to any subordinate of the City under the jurisdiction of the City Manager or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the City Manager or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or his removal from office by the City Manager, or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member.

Section 405 is deleted in its entirety.

Section 701 is amended to read:

Section 701. Board of Port Commissioners.

The exclusive control and management of the Port Department is hereby vested in the Board of Port Commissioners, which shall be composed of seven (7) members who shall be appointed by the Council, upon nomination by the Mayor.

No person shall be appointed as, or continue to hold office as, a member of the Board who is not at the time of his appointment, and has not been continuously for thirty (30) days immediately preceding his appointment, and who shall not continue to be during his term, a bona fide resident of the City of Oakland.

The Members of the Board shall serve without salary or compensation.

Section 809 is amended to read:

Section 809. Annual Audit.

Council shall engage during the first month of each fiscal year an independent certified public accountant who shall examine and report to the Council on the annual financial statement of the City. He shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds, and of such other officers, employees, or departments as the Council may direct. He shall submit his audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the Council, and shall be available for public inspection and review.

Section 906 is deleted in its entirety.

Section 1208 is amended to read:

Section 1208. Violation.

The violation of any provision of the Charter shall be deemed a misdemeanor and be punishable upon conviction in the manner provided by State Law, unless otherwise expressly provided for in this Charter.

Section 1213 is amended to read:

Section 1213. Sunset Provision.

At the general election to be held in November, 2004, the City Council shall cause to be placed on the ballot a proposed Charter amendment the sole effect of

which, if passed, shall be to retain the changes made to the Charter that relate specifically to the 1998 adoption of Measure X. If that proposed Charter amendment is put before the voters and not passed, then all of said changes to the Charter shall lapse and have no further effect.

Certified to be a true copy by Ignacio De La Fuente, President of the City Council, and Ceda Floyd, City Clerk.

Date of Election: November 7, 2000.

Charter Chapter 9—City of Signal Hill

Charter of the City of Signal Hill

[Filed with the Secretary of State February 23, 2001.]

We, the People of the City of Signal Hill, State of California, do ordain and establish this Charter as the organic law of the City under the Constitution of the State of California.

ARTICLE I. INCORPORATION AND SUCCESSION

SECTION 100. Name and Boundaries.

The City of Signal Hill, hereinafter termed the City, shall continue to be a municipal corporation under its present name of “City of Signal Hill.” The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

SECTION 101. Succession, Rights and Liabilities.

The City of Signal Hill, shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

SECTION 102. Ordinances.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until they are repealed, amended, changed or superseded by proper authority.

SECTION 103. Continuance of Present Officers and Employees.

The present officers and employees of the City shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment or election and qualification of their successors, but subject to removal, amendment, change, or control provided by the provisions of this Charter. Nothing contained in this Charter, unless specifically otherwise provided herein, shall affect or impair the civil service, personnel, pension, or retirement rights or privileges of officers

or employees of the City, or of any office, department, or agency thereof, existing at the time this Charter takes effect.

SECTION 104. Continuance of Contracts.

Except with respect to the term of certain franchises as provided in Section 918, all contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms.

SECTION 105. Pending Actions and Proceedings.

No action or proceeding, civil or criminal, filed and pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained in the Charter, but all such actions or proceedings may be continued notwithstanding that functions, powers, and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

SECTION 106. Seal.

The City shall have an official seal, which may be changed from time to time by ordinance. The seal of the City at the time this Charter takes effect shall continue to be the official seal of the City until changed as provided herein.

SECTION 107. Validity.

If any article, sections, sentence, clause or portion of this Charter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 108. Effective Date of Charter.

This Charter shall take effect upon its approval by the Legislature after it has been ratified by the qualified voters of the City in the manner set forth in the Constitution of the State of California.

SECTION 109. Amendment.

Any proposal for the amendment, revision, or repeal of this Charter or any portion thereof may be proposed by majority vote of the city council, or by initiative by the People of the City of Signal Hill. No such proposal shall be effective until approved by a majority vote of the voters voting at an election on the question, and until filed with the Secretary of State of the State of California. In the event of any conflict between this section and Article XI, § 3 of the California Constitution, as may be amended, the latter shall govern.

ARTICLE II. POWERS OF CITY

SECTION 200. Powers.

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. The City shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore, or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions. This Charter shall be liberally construed to vest the City with all legal authority and powers necessary to protect the health, safety, and general welfare of all of the citizens of the City.

SECTION 201. Procedures.

The City shall have the power to and may act pursuant to any procedure established by any law of the State, unless a different procedure is required by this Charter.

SECTION 202. Form of Government.

The municipal government established by this Charter shall be known as the “Council-Manager” form of government.

SECTION 203. Intergovernmental Relations.

The City may exercise any of its authority and may perform any of its powers jointly, or in cooperation with, one or more other cities, counties, states, the United States, or any political subdivisions, civil divisions, or agencies thereof, or any other governmental entity.

SECTION 204. Establishment of Specialized Agencies or Authorities.

The City shall have the power to establish a redevelopment agency, housing authority, economic development authority, special district, or other agency or authority of specialized expertise or application to the full extent as may be permitted by state or federal law, in order to carry out the business of the City or otherwise advance the health, safety, or general welfare of its citizens. All specialized agencies created by the City and in existence on the effective date of this Charter shall continue to perform their duties and operate pursuant to their existing legal authority, unless and until the city council may otherwise provide by ordinance or resolution.

SECTION 205. Reserved.

ARTICLE III. ELECTED OFFICERS

SECTION 300. Powers Vested in the city council.

All powers of the City shall be vested in the city council except as otherwise provided in this Charter.

SECTION 301. Officers.

The elective officers of the City shall consist of a city clerk, a city treasurer, and a city council of five members, one of whom shall be the mayor. Each elected officer shall be elected from the City at large and shall be all of the following: (i) a citizen of the United States; (ii) 18 years of age or older; and (iii) a registered voter and resident of the City for at least 29 days prior to the date of filing nomination papers. Each elected officer shall continue to reside in the City for the duration of his or her tenure. Subject to the requirements provided in this Charter, all elected officers shall serve for a term of four years and until their respective successors are elected and qualified.

The five members of the city council in office at the time this Charter takes effect shall continue in office until the termination of their current terms.

Those city councilmembers who are serving existing terms as of the effective date of this Charter and who were elected at the March 4, 1997 general municipal election shall serve terms until no later than the third Tuesday in March, 2001. Those city councilmembers who are serving existing terms as of the effective date of this Charter and who were elected at the March 2, 1999 general municipal election shall serve terms until no later than the third Tuesday in March, 2003. All city council offices filled by general municipal election occurring after the effective date of this Charter shall be for a term of four years, and shall be elected at the general municipal election each fourth year thereafter.

The term of each member of the city council shall commence on the third Tuesday of March in the year in which they are elected. Ties in voting among candidates for office shall be settled by drawing by lot or by special election as the City Council shall determine by ordinance or resolution to be conducted pursuant to procedures which may be established by ordinance. City council may, by ordinance or resolution passed no later than thirty (30) days prior to election, determine whether ties in voting among candidates shall be settled by drawing by lot, by special election, or by other means.

SECTION 302. The Mayor; Vice Mayor.

At the first regular city council meeting following a general municipal election in which newly elected councilmembers are sworn and seated, and at the first regular city council meeting following the anniversary of that date for any year in which no general municipal election is held, the city council shall designate one of its members as mayor and one of its members as vice mayor, whom shall serve in such capacity at the pleasure of the city council. The vice mayor shall perform the duties of the mayor during any period of the mayor's absence or disability.

The mayor shall be the head of the City for all ceremonial purposes. The mayor shall serve as the primary, but not exclusive, spokesperson of the City. The mayor shall perform such other duties consistent with his or her office as may be prescribed by this Charter, or as may be imposed by the city council.

SECTION 303. Eligibility.

No person shall be eligible to hold an elective office unless he or she is, at the time of issuance of nomination papers for the elective office, an elector of the City, or of territory annexed thereto. Any elective officer of the City who shall accept or retain any other elective public office, or any other public office whose duties are incompatible with the duties of a member of the city council of the City, except as may be otherwise provided by this Charter, shall be deemed thereby to have vacated his or her office under the City government.

SECTION 304. Compensation.

The members of the city council shall receive such compensation for their services as may be established by ordinance. Those members of city council in office on the effective date of this Charter shall continue to be compensated at the level of compensation effective immediately prior to the effective date of this Charter, and shall continue to be compensated at such level for the remainder of their terms. No ordinance of the city council shall increase the compensation of any member of the council during that member's term of office, provided that nothing herein shall prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of such council becomes eligible for a salary increase by virtue of beginning a new term of office. Each member of the city council shall receive reimbursement on order of the city council for council-authorized traveling and other expenses when on official duty.

SECTION 305. Vacancies.

If a member of the city council is absent from all regular meetings of the city council for a period of 60 days consecutively from and after the last regular city council meeting attended by such member, unless such absence is by permission of the city council expressed in its official minutes, or is convicted of any felony, any offense involving a violation of his or her official duties, or a crime involving moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The city council shall declare the existence of any such vacancy, and the office shall be deemed vacant from the date of such declaration.

A vacancy in the city council, from whatever cause, may be filled by appointment by a majority of the remaining members of the city council, or by special election. Any person appointed or elected to fill a vacancy in the city council shall serve the remaining unexpired term of the office. In the event it shall fail to fill a vacancy by appointment within forty-five days after such office shall become vacant, the city council shall cause an election to be held forthwith to fill such vacancy. If city council calls a special election to fill the vacancy, the city council may make an interim appointment to fill the vacancy until the date of the special election. The times and procedures for the calling of any special election to fill a city council vacancy may be established by ordinance.

SECTION 306. Interference in Administrative Service.

Except as otherwise provided in this Charter, neither the city council nor any of its members shall interfere with the execution by the city manager of his or her powers and duties. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service under the city manager solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

SECTION 307. Regular Meetings.

Unless otherwise provided by ordinance, or resolution of the city council, the city council shall hold regular meetings at least twice each month. City council meetings shall be held at such times as it shall fix by ordinance or resolution and the city council may adjourn or readjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day.

SECTION 308. Special Meetings.

Special meetings may be called at any time by the mayor, or by three members of the city council, by written notice delivered personally to each member at least twenty-four hours before the time specified for the proposed meeting. A special meeting may also be validly held without the giving of such written notice, if required to be held by this Charter or if all members shall give their consent, in writing, to the holding of such meeting and such consent is on file in the office of the city clerk at the time of such meeting. At any special meeting only such matters may be acted upon as are referred to in such written notice or consent.

SECTION 309. Place of Meetings.

Unless otherwise provided by ordinance or resolution of the city council, all meetings shall be held in the council chambers of the city hall, or in such place to which any such meeting may be adjourned, and except for any closed sessions permitted under the laws of the State of California shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor, or, if he or she is unable or should fail to act, by three members of the city council.

SECTION 310. Quorum; Proceedings.

Three members of the city council shall constitute a quorum to do business, but a less number may adjourn from time to time. In the absence of all the members of the city council from any regular meeting or adjourned regular meeting, the city clerk may declare the meeting adjourned to a stated day, hour, and place. Notice of a meeting adjourned by less than a quorum or by the clerk shall be given by the

clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the city council, but need not specify the matters to be acted upon. The city council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings, or for violation of the rules for conduct of city council proceedings.

Each member of the city council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the city council. The city council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas may issued by the city council in the name of the City and be attested by the city clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

SECTION 311. Citizen Participation.

No person shall be denied the right, personally or through counsel, to address the city council at any regular meeting regarding any item within its subject matter jurisdiction. City council may, by ordinance or resolution, impose reasonable regulations on the exercise of such right to preserve the orderly nature of its proceedings.

SECTION 312. Adoption of Ordinances.

With the sole exception of ordinances which take effect upon adoption, referred to in this article, all ordinances shall be first introduced by the city council, and shall be adopted no sooner than five days after the date of their introduction. All ordinances shall be introduced, deliberated, and passed upon at a regular, adjourned regular or special meeting of the city council. At the time of its introduction, an ordinance shall become a part of the proceedings of such meeting, and a copy of the introduced ordinance shall be kept in the custody of the city clerk. At the time of adoption of an ordinance, it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any meeting other than a regular, adjourned regular, or special meeting.

Unless a higher vote is required by other provisions of this Charter, or by the laws of the State of California which supersede this Charter, the affirmative votes of at least three members of the city council shall be required for the enactment of

any ordinance, or for the making or approving of any order for the payment of money, or for entering into any contract where the amount to be paid by the City exceeds fifty thousand dollars (\$50,000), or such other amount as the city council may establish by ordinance. All ordinances shall be signed by the mayor and attested by the city clerk. Resolutions shall also be signed by the mayor, and attested by the city clerk.

Any ordinance declared by the city council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least four affirmative votes.

SECTION 313. Ordinances, Publication.

The city clerk shall cause each ordinance or a summary of each ordinance to be published at least once in a newspaper of general circulation in the City or by such other method of publication permitted by the then-existing law, within fifteen days after its adoption.

SECTION 314. Codification of Ordinances.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, mechanical devices, abatement of dangerous buildings, or similar matters consisting of part of a uniform code adopted by the County of Los Angeles, or generally adopted on a state-wide or region-wide basis, when arranged as a comprehensive code, may likewise be adopted by reference to the full extent permitted by the general laws of the State of California, and pursuant to procedures established therein. Maps, charts and diagrams also may be adopted by reference in the same manner.

SECTION 315. Ordinances, When Effective.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect immediately upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.

(d) An emergency ordinance adopted in the manner provided for in this article.

SECTION 316. Ordinances; Violation; Penalty.

The city council may designate the violation of any ordinance of the City to constitute a misdemeanor or an infraction. Unless specifically designated as an infraction, a violation of any ordinance of the city shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a city ordinance, whether a misdemeanor or an infraction, shall be as established by ordinance, resolution, or minute order of the city council.

SECTION 317. Publishing of Legal Notices.

The city clerk shall cause all legal notices to be published in a newspaper of general circulation within the City or by such other method of publication permitted by the then-existing law, pursuant to procedures which may be adopted by the city council by ordinance or resolution.

In the event there is no newspaper of general circulation published and circulated in the City, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the City, or by such other method of publication permitted by the then-existing law.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter, an ordinance, or other law.

SECTION 318. City Clerk, Powers and Duties.

There shall be a city clerk who shall have power and shall be required to:

(a) Attend in person or through authorized representative, all meetings of the city council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the city council in books that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain records, in which shall be recorded respectively all ordinances, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter; and keep all books properly indexed and open to public inspection when not in actual use.

(c) Have the responsibility for records management of official actions of the city council, including contracts, bonds, deeds, and other recorded instruments.

(d) Be the custodian of the seal of the City.

(e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(f) Be ex-officio assessor, unless the city council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of city taxes by county officers, or unless the city council by ordinance provides otherwise.

(g) Serve as the election official of the City and have charge of all City elections.

(h) Serve as the City's agent for service of process.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the city council.

Any duties of the city clerk can be assigned by the city clerk to the city manager or the deputy city clerk. The city clerk shall receive such compensation for his or her services as may be established by ordinance. The city clerk in office on the effective date of this Charter shall continue to be compensated at the level of compensation effective immediately prior to the effective date of this Charter, and shall continue to be compensated at such level for the remainder of his or her term. The city clerk shall receive reimbursement on order of the city council for council-authorized traveling and other expenses when on official duty.

SECTION 319. City Treasurer, Powers and Duties.

There shall be a city treasurer who shall have the legal responsibility to:

(a) Receive and safely keep all money which is transmitted to the City or any of its officers and issue a receipt to the payor for each remittance received.

(b) Comply with all laws governing the deposit and securing of public funds and the handling of trust funds in his or her possession.

(c) Prepare as of the end of each day a summary of the moneys received, which summary shall state the fund into which the payments have been credited and the source thereof, and submit the same to the finance director.

(d) Pay out money only on warrants signed by legally designated persons.

(e) Submit to the finance director a written report at the end of each month accounting for all moneys received and disbursements made during such month and setting forth the fund balances as of the end of such month and file a copy of such report with the city clerk whom shall present the same to the city council at its next regularly scheduled meeting.

(f) Perform such other duties consistent with this Charter as may be required by the city council.

Any duties of the city treasurer can be assigned by the city treasurer to the director of finance. The city treasurer shall receive such compensation for his or her services as may be established by ordinance. The city treasurer in office on the effective date of this Charter shall continue to be compensated at the level of compensation effective immediately prior to the effective date of this Charter, and shall continue to be compensated at such level for the remainder of his or her term. The city treasurer shall receive reimbursement on order of the city council for council-authorized traveling and other expenses when on official duty.

ARTICLE IV. CITY COUNCIL APPOINTED OFFICERS;
CITY MANAGER AND CITY ATTORNEY

SECTION 400. City Manager.

There shall be a city manager who shall be the chief administrative officer of the city. The city council shall appoint, by an affirmative vote of at least three of its members, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice with respect to the duties of the office as set forth in this Charter. The city manager shall serve at the pleasure of the city council.

SECTION 401. Eligibility.

No person shall be eligible to receive appointment as city manager while serving as a member of the city council nor within one year after he or she has ceased to be a member of the city council.

SECTION 402. Compensation and Bond.

The city council shall be authorized to enter into a contract of employment with the city manager. The city manager shall have no vested or procedural rights in connection with his or her employment as city manager, except as may be granted by city council through contract or otherwise. The city manager shall be paid a salary commensurate with his or her responsibilities as chief administrative officer of the city, which salary shall be established by ordinance or resolution, or by contract with the city manager.

The city manager shall furnish a corporate surety bond conditioned upon the faithful performance of his or her other duties in such form and in such amount as may be determined by the city council.

SECTION 403. City Manager, Powers and Duties.

The city manager shall be the head of the administrative branch of the city government. The city manager shall be responsible to the city council for, and shall have jurisdiction over, the proper administration of all affairs of the City except those delegated by this Charter to the city attorney or other appointive boards or commissions. Without limiting the foregoing general grant of powers, responsibilities and duties, the city manager shall have power and be required to:

(a) Appoint, suspend or remove, subject to the provisions of this Charter including the personnel system provisions thereof, officers of the City except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the city council or in other appointive boards or commissions, and approve or disapprove all proposed appointments and removals of subordinate employees by those department heads who are appointed by the city manager.

(b) Prepare the budget annually, submit such budget to the city council and be responsible for its administration after its adoption.

(c) Prepare and submit to the city council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the City for the preceding fiscal year.

(d) Keep the city council advised of the financial condition and future needs of the City and make such recommendations as may seem appropriate.

(e) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the city government and recommend them to the city council for adoption.

(f) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.

(g) Prescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his or her jurisdiction, and exercise control of all such administrative offices and departments and the officers and employees thereof.

(h) Perform such other duties consistent with this Charter as may be required by the city council.

SECTION 404. Meetings.

The city manager or his or her designated representative shall attend all city council meetings, and may attend all meetings of other boards and commissions, and shall be entitled to participate in their deliberations, but shall not have a vote.

SECTION 405. Removal.

The city manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the city council is elected. At any other time the city manager may be removed only at a regular meeting of the city council and upon the affirmative votes of at least three members of the city council. In removing the city manager, the city council shall have absolute discretion, and its actions shall be final. The city manager shall not have any procedural rights entitling him or her to a hearing or other notice prior to termination, except as may be provided by ordinance or contract.

SECTION 406. Interim City Manager.

The city manager may appoint one of the officers or department heads of the City, or any other qualified person, to serve as interim city manager during the temporary absence or disability of the city manager. In the event of the death, resignation or dismissal of the city manager, the city council may appoint any qualified person to act as interim city manager pending the appointment of a new city manager.

SECTION 407. City Attorney.

There shall be a city attorney, who shall be appointed by and serve at the pleasure of the city council. An affirmative vote of three members of the city council shall be required to appoint or remove the city attorney. To become and

remain eligible for city attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of municipal law for at least five years prior to his or her appointment.

SECTION 408. City Attorney, Powers and Duties.

The city council is authorized to enter into a contract with the city attorney. The city attorney shall have no vested or procedural rights in connection with his or her employment as city attorney, except as may be granted by city council, through ordinance, contract or otherwise. The city attorney shall have power and be required to:

(a) Represent and advise the city council and all city officers in all matters of law pertaining to their offices.

(b) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his or her official capacity.

(c) Attend all meetings of the city council and give advice or opinions in writing whenever requested to do so by the city council or by any of the boards or officers of the City.

(d) Approve the form of contracts made by and bonds given to the City, and all deeds or covenants recorded for or on behalf of the City.

(e) Approve any and all proposed ordinances and resolutions for the City and amendments thereto.

(f) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

(g) Prosecute on behalf of the people of the City any or all criminal cases arising from violation of this Charter or city ordinances, and such State misdemeanors as the City has the power to prosecute.

(h) Recommend and oversee the hiring and supervise the work of any and all other attorneys employed by the City to perform legal work on any litigation or other matter, or to otherwise assist the city attorney.

(i) To otherwise serve as the legal counselor to the City, and to perform other duties consistent with the Charter, as directed by the city council.

ARTICLE V. OFFICERS AND EMPLOYEES

SECTION 500. Administrative Departments.

The city council may provide, by ordinance not inconsistent with this Charter, for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. Each new department created by the city council shall be headed by an

officer as department head who shall be appointed and may be suspended or removed by the city council.

All department heads shall be at-will employees, all of whom shall be appointed to serve at the pleasure of the city council, and shall have no procedural hearing rights on termination, but shall be entitled to all vested compensation and benefits at the time of termination, provided, however, that nothing in this Charter shall change the status or rights of any existing officer or employee.

The city council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter. Where the positions are not incompatible, the city council may combine in one person the powers and duties of two or more offices created or authorized by this Charter. No office provided in this Charter to be filled by appointment by the city manager may be consolidated with an office to be filled by direct appointment by the city council. The city council shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

SECTION 501. Director of Finance.

There shall be a director of finance who shall be appointed by the city council, and whose appointment, suspension or removal shall be made by the city council. The director of finance shall be qualified by sufficient technical accounting training, skill, and experience to be proficient in the discharge of the responsibilities of the office. The director of finance shall have power and shall be required to:

- (a) Serve as the chief fiscal officer of the City.
- (b) Have charge of the administration of the financial affairs of the City under the direction of the city manager, and to assist and advise the city council and city manager in all matters pertaining to City finances.
- (c) Compile annual expense and income estimates for the city manager.
- (d) Maintain a general accounting system for the City government and each of its offices, departments and agencies, and perform all financial and accounting duties.
- (e) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the City government and, with the advice of the city attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.
- (f) Submit to the city council through the city manager a periodic statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.
- (g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.

(h) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the county, state or federal government, or from any court, or from any office, department or agency of the City.

(i) Submit to the city manager and city council an annual Statement of Investment Policy, which Statement shall comply with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds and which shall be adopted by resolution of the city council.

(j) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit all funds coming into his or her hands in such depository as designated in the City's Municipal Code as the same may be amended from time to time, and to invest such funds in accordance with the City of Signal Hill Statement of Investment Policy, as such Statement may be amended from time to time.

(k) Prepare and submit to the city manager and city council a monthly report which shall include information regarding the City's outstanding investments, a statement of the city's compliance with the Statement of Investment Policy, and such other information as required in the Statement of Investment Policy, as the same may be amended from time to time.

(l) Perform such other duties consistent with this Charter as may be required by the city council.

SECTION 502. Chief of Police.

There shall be a chief of police who shall be appointed by the city council, and whose appointment, suspension or removal shall be made by the city council. The chief of police shall have the power conferred upon sheriffs by general law and be entitled to the same protection for the suppression of riot, public tumult, disturbance of the peace or resistance against the laws or public authorities in the lawful exercise of their function and shall be required to:

(a) Execute and return all process issued and directed to him by legal authority.

(b) Manage the prisoners and any City jail established by the city council.

(c) Receive the same fees as constables for service or any process.

(d) Perform any license fee and tax collection services prescribed by ordinance.

(e) Maintain a detailed and up-to-date record of all fees for service of process or other money collected by his or her department or paid to him or her in his or her official capacity.

(f) Immediately deposit with the city treasurer all money collected by his or her department as required by ordinance.

(g) Perform such other duties consistent with this Charter as may be required by the city council.

SECTION 503. Administering Oaths.

Each department head and his or her deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

SECTION 504. Department Heads; Appointment Powers.

Each department head and appointive officer shall have the power to appoint, suspend or remove such deputies, assistants, subordinates and employees as are provided for by the city council for his or her department or office, subject to the provisions of this Charter and of any personnel system adopted hereunder. Any such appointment or removal by a department head shall be subject to approval of the city manager.

SECTION 505. Official Bonds.

The city council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the city attorney, and shall be filed with the city clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his bond, for any wrongful act or omission of his subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

SECTION 506. Compensation.

The city council shall determine, by ordinance, resolution, or contract the amount of compensation to be paid to all City officers, department heads, and employees.

SECTION 507. Indemnification of Employees.

Upon request by any employee or former employee of the City named in any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the City, made in writing not less than ten (10) days before the trial of the action, and so long as the employee or former employee cooperates reasonably and in good faith in the defense of the claim or action, the City shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the City has agreed. Where the City conducts the defense of the claim or action pursuant to an agreement with the employee or former employee, reserving the City's rights not to pay the judgment, compromise, or settlement until it is established the injury arose out of act or omission occurring within the scope of his or her employment as a City employee, the City shall be required to pay the judgment, compromise, or settlement only if it is established the injury arose out of an act or omission occurring within the scope of his or her employment as a City employee. The City may indemnify any employee or former employee for any part of a claim or judgment that is for punitive or exemplary damages only upon a vote to do so by a majority of the membership of the city council.

ARTICLE VI. APPOINTIVE BOARDS AND COMMISSIONS

SECTION 600. In General.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated: A planning commission, a parks and recreation commission, and a civil service commission. In addition, the city council may create by ordinance or resolution such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

SECTION 601. Appropriations.

The city council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions. The city council may, by ordinance or resolution, set reasonable fees and charges for defraying the costs of hearings or other administrative proceedings of the City's appointive boards and commissions.

SECTION 602. Appointments; Terms.

The members of each of such boards or commissions shall be appointed by the mayor, with the approval of the city council. Unless otherwise provided by ordinance, each member shall be all of the following: (i) a citizen of the United States; (ii) 18 years of age or older; and (iii) a registered voter and resident of the City for at least 29 days prior to the date of appointment. Each member shall continue to reside in the City for the duration of his or her tenure. No member shall hold any paid office or employment in the City government. They shall serve at the pleasure of the city council, and shall be subject to removal by motion of the city council adopted by at least three affirmative votes. The members shall serve for a term of four years, unless city council by ordinance or resolution establishes a different term, and until their respective successors are appointed and qualified. The respective terms of office of all members of the boards and commissions in existence at the time this Charter takes effect shall continue upon the effective date of this Charter.

SECTION 603. Meetings; Chair.

As soon as practicable, following the first day of every calendar year, or such other time as may be designated by resolution of the city council, each of such boards and commissions shall organize by electing one of its members to serve as chair and by electing one of its members to serve as vice-chair at the pleasure of such board or commission. Unless otherwise provided by ordinance or in the rules of proceeding promulgated by the applicable board or commission, each board or commission shall hold regular meetings at least once each month, and may hold special meetings as such board or commission may require. All proceedings shall be open to the public, except for such closed sessions as may be authorized by law, and shall be conducted in accordance with open meeting laws of the State of California.

Except as may be otherwise provided in this Charter, the city manager shall designate a secretary for the recording of minutes for each of such boards and

commissions, who shall keep a record of its proceedings and transactions and shall provide staff support for such board or commission. Each board or commission shall be governed by Roberts Rules of Order except that each board or commission may by resolution adopt such other rules and regulations which shall be consistent with this Charter, as each may deem appropriate. Copies of all such resolutions shall be kept on file in the office of the city clerk, where they shall be available for public inspection. The city council may by ordinance or resolution grant to board or commission the same power as the city council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations.

SECTION 604. Compensation.

Unless otherwise provided by ordinance, the members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the city council.

SECTION 605. Removal; Vacancies.

Any member of a board or commission may be removed at any time by a vote of a majority of the membership of the city council and, notwithstanding any other provision of this section mandating city council consideration of removal of a board or commission member, removal may be with or without cause. The issue of whether to declare the office of a board or commission member vacant shall be brought before the city council as follows:

- (a) Upon the resignation of the board or commission member;
- (b) Upon the request of any member of the city council;
- (c) Upon excessive absenteeism, to be defined as absence from three consecutive meetings of such board or commission or for twenty five percent (25%) of the duly scheduled meetings of the board or commission within any fiscal year, unless by permission of such board or commission expressed in its official minutes;
- (d) Upon conviction of any felony or crime of moral turpitude;
- (e) If the member of the board or commission ceases to be an elector of the City;
- (f) Failure of the board or commission member to file a financial disclosure statement as may be required by State law or city ordinance; or
- (g) Such other reason as the city council may determine.

The city council may declare the office of any board or commission member vacant, and the vacancy shall be effective from the date of the declarant unless otherwise specified in the declaration.

Any vacancies in any board or commission shall be filled by appointment by the mayor, with the approval of the city council. Upon a vacancy occurring which leaves an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.

SECTION 606. Indemnification of Members of Boards and Commissions.

Upon request by any member or former member of any appointed board or commission established pursuant to this article named in any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her duties as a member of such board or commission of the City, made in writing not less than ten (10) days before the trial of the action, and so long as the member cooperates reasonably and in good faith in the defense of the claim or action, the City shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the City has agreed. Where the City conducts the defense of the claim or action pursuant to an agreement with the member or former member of such board or commission, reserving the City's rights not to pay the judgment, compromise, or settlement until it is established the injury arose out of act or omission occurring within the scope of his or her duties as a member of such board or commission, the City shall be required to pay the judgment, compromise, or settlement only if it is established the injury arose out of an act or omission occurring within the scope of his or her duties as a member of such board or commission. The City may indemnify any member or former member of such board or commission for any part of a claim or judgment that is for punitive or exemplary damages only upon a vote to do so by a majority of the membership of the city council.

SECTION 607. Planning Commission.

There shall be a planning commission consisting of five members. There shall be a director of community development whose duties shall be established by ordinance, resolution, or regulation, and who shall be the recording secretary for the planning commission. The director of community development, or his or her designated representative shall attend all planning commission meetings. The planning commission may meet with and receive advice from the city attorney as it or the city attorney may deem necessary. The planning commission shall have all of the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) All duties set out in the California Planning and Zoning Law for a planning agency.
- (b) After public hearing, recommend to the city council any amendment to the general plan or any part thereof, or any zoning ordinance amendments.
- (c) Exercise authority granted to it by ordinance over subdivisions, use permits, or other matters not inconsistent with this Charter.
- (d) Make recommendations to the city council concerning public works.
- (e) Perform other duties specified by the city council not inconsistent with this Charter.

SECTION 608. General Land Use Authority.

The City of Signal Hill is a small unique community that is economically independent, prides itself in personalized service to the residents and business community that it serves, and a community which has created and works to

maintain a high degree of livability for its residents. The City's unique topography, advantageous location near major transportation corridors and hubs, including airport and port facilities, and significant undeveloped property caused by the historic devotion of the land to oil production give the City the potential of being the best planned and most desirable community in the area. At the same time, the transition from an industrial community devoted to oil production to a balanced community known for its livability presents unique challenges. It is the goal of the City to maintain a portion of its industrial legacy, to develop housing for all segments of the population, and to promote commercial development both of a regional character, to establish a sound financial base, and of a neighborhood character, to service the needs of those who work and reside in the City. In promoting "balance" and "livability" it is the goal of the City that residents be able to reside, work, purchase goods, and services, attend school, recreate, and otherwise enjoy a decent and good living in Signal Hill.

Except as otherwise provided by ordinance of the city council the City shall have the full power to enact regulatory land use measures, including but not limited to the following:

(a) Creation of a general plan for the long-term growth and orderly development of the City consistent with the foregoing policies.

(b) Creation of a zoning ordinance in conformity with the general plan which provides the City's general land use regulations.

(c) Enact specific plans, redevelopment agreements, and other similar matters for the regulation and development of land.

(d) Abate public nuisances which depreciate property values.

(e) Make determinations pursuant to the California Environmental Quality Act.

(f) Regulate oil uses and the operation and abandonment of oil wells, pipelines and appurtenant facilities.

(g) Approve the subdivision and resubdivision of property.

(h) Establish a site design and review process to approve individual applications for development to assure quality and compatibility with adjacent uses.

(i) Establish procedures to approve conditional uses, variances and other land use entitlements.

(j) Establish regulations governing the use of property.

(k) Establish measures to mitigate for the impacts of development on adjacent property and the City generally through land use regulations, requirements that the developer provide appropriate infrastructure improvements, impact mitigation fees, assessments for construction of infrastructure improvements and similar measures.

(l) Condition development to provide for the maintenance in a first class condition of all improvements through recorded covenant agreements, assessments and other measures to assure new development is adequately maintained and pays its fair share of the costs imposed.

SECTION 609. Parks and Recreation Commission.

There shall be a parks and recreation commission consisting of five members. The parks and recreation commission shall have all of the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) Act in an advisory capacity to the city council and the city manager.
- (b) Communicate to public officials and the general public the leisure-time needs, facilities, and services of the citizens of the City, so that adequate support may be obtained for programs therefor.
- (c) Recommend general policies concerning all parks and recreation properties, facilities, plans, programs, and activities. It may also recommend a long-range program for the improvement, acquisition, and development of parks and recreation facilities and for the extension of services.
- (d) Perform other duties specified by the city council not inconsistent with this Charter.

SECTION 610. Civil Service Commission.

There shall be a civil service commission whose powers and duties shall be as set forth in Article VII below.

ARTICLE VII. PERSONNEL SYSTEM

SECTION 701. Personnel Rules and Policies.

The city council may by ordinance establish a system of personnel rules and policies, governing the terms of employment of any or all employees of the City.

The personnel rules and policies may govern, without limitation, the following aspects of the personnel system:

- (a) Classification of employment by employment position between exempt and non-exempt appointments, and determination of “at will” categories of employment positions.
- (b) The preparation, installation, revision and administration of a position classification plan covering all positions in the competitive service.
- (c) The preparation, installation, revision and administration of a plan of compensation corresponding to the position classification plan, providing a rate or range of pay for each class.
- (d) The public announcement of examinations and application for and acceptance of applications for employment and establishing of criteria related thereto.
- (e) The preparation and administration of examinations and the establishment and use of resulting employment lists containing names of persons eligible for appointment.
- (f) The certification and appointment of persons from employment lists, and the making of temporary, emergency, and provisional appointments.
- (g) The establishment of hours of work, attendance and leave regulations, training programs, benefits, conduct guidelines and other conditions of work.

(h) The evaluation of employees during the probationary period and at periodic intervals.

(i) The development of employees' morale, welfare, training, and safety.

(j) The establishment and maintenance of suitable methods of effective communication between employees and their supervisors; between employees and the city manager; and between employees and the city council, relating to conditions of employment in the city service, and the establishment and maintenance of the city's employee-employer relations program consistent with the letter and intent of State law and the City's employee Memoranda of Understanding.

(k) The transfer, promotion, demotion, reinstatement, separation, or any other change of status of employees in the competitive service.

(l) The discipline of employees.

(m) A system or systems for submission to and review by the civil service commission, city manager, city council, personnel manager or other designated person or persons, of designated types of discipline and personnel decisions, for fact-finding, recommendations, final decision or other designated purposes or effects.

(n) The development and administration of policies which assure an unbiased work environment and fully protect the rights of each employee.

(o) The maintenance and use of necessary records and forms, including payroll certification.

(p) The system for any employee-selected board members to be elected and for the board to conduct its business established by the personnel rules.

SECTION 702. Civil Service Commission.

There shall be a civil service commission consisting of five members, unless the city council by ordinance provides for a different number of members, or provides for the discontinuance or dissolution of the civil service commission entirely, in favor of some other board or alternative procedure for the review and recommendation of issues arising under the personnel system. The rules and regulations for appointment of members to the civil service commission shall be as determined by ordinance of the city council. The civil service commission may meet with and receive advice from the city attorney, as it or the city attorney may deem necessary. The civil service commission shall have the following powers and duties, which powers and duties may be modified by ordinance of the city council:

(a) Conduct hearings in accordance with personnel rules and policies adopted by the city council, and make findings and recommendations thereon.

(b) Certify to the appointing power a list, established by the personnel officer, of all persons eligible for appointment to the appropriate position in the classified service. The list shall be established on the basis of merit and fitness ascertained so far as practicable by competitive examination. The commission shall have available to it any and all documents, tests, examinations, work samples, or any combinations thereof which will, in the opinion of the Commission, demonstrate

the fair and impartial administration of the examination process by the personnel officer.

(c) Make recommendations to the city council on amendments to the personnel rules and policies.

(d) Conduct investigations regarding hearings pending before it.

(e) Have the power to compel the attendance of witnesses and the production of documents by way of subpoena, and to examine witnesses appearing before it.

(f) Perform other duties specified by the city council not inconsistent with this Charter.

SECTION 703. Hearings Before Civil Service Commission.

City council may by ordinance establish rules and regulations governing the presentation and hearing of protests, grievances, or questions arising under the personnel system before the civil service commission. Any person aggrieved by any action of the civil service commission may appeal such action to the city council, according to procedures which shall be established by ordinance. The decision of the city council in any such appeal shall be final.

SECTION 704. Contracts with Employees.

The City may enter into any contracts or collective bargaining agreements with its employees, and shall meet and confer with the duly authorized representative of such employees regarding wages, hours and other terms and conditions of employment to be included in any such agreement. If any provision of the general law of the State of California imposes a mandated benefit for employees of general law cities, then so long as that benefit is so mandated for employees of general law cities, the same benefit shall be extended to all employees of the City that would otherwise qualify for the benefit under the general law.

SECTION 705. California Public Employees Retirement System.

Plenary authority under this Charter shall be vested in the City and the city council, and by delegation of the city council, to its several officers, agents, and employees, to do all acts and exercise all authority granted, permitted, or required to enable the City to continue as a contracting city under the California Public Employees Retirement System.

SECTION 706. Termination of California Public Employees Retirement System.

The city council may terminate the contract with the Board of Administration of the California Public Employees Retirement System (CalPERS) only as provided herein. The city council may initiate proceedings for termination of the contract with the Board of Administration of CalPERS by passage of a resolution of intention to do so, and not less than one year after passage of the resolution of intention, by placing an ordinance ordering the termination of the ballot for a vote by the People of Signal Hill. Any action to place such an ordinance on the ballot shall require a vote of two-thirds of the membership of the city council. If the ordinance is passed by a majority vote of the voters voting in an election on the

question, the city clerk shall forward a certified copy of the ordinance so approved to the Board of Administration of (CalPERS) for processing and finalization of the termination.

SECTION 707. Eligibility for Appointed Office.

No person holding or retaining any elective public office, and no person holding any appointed office whose duties are incompatible with the duties to be discharged for the City, shall be eligible for appointment as city manager, city attorney, or a member of any appointed board or commission. No person shall be eligible for appointment as city manager, city attorney, or a member of any appointed board or commission who is a relative by blood or marriage within the third degree of any one or more members of the city council. The city manager, respective department heads, and all other persons empowered by this Charter or ordinance to appoint any person to any appointed position in the City government shall not appoint any person who is a relative by blood or marriage within the third degree of the person making the appointment.

SECTION 708. Illegal Contracts; Financial Interest; Incompatible Employment.

No member of the city council, department head or other officer of the City (except a member of any board or commission), shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party. No member of any board or commission shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party and which comes before the board or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the City with which such board or commission is connected. Any contract, sale or transaction in which there shall be such an interest, as specified in this section, shall become void at the election of the City when so declared by resolution of the city council. The general laws of the State of California shall be used in determining what constitutes a financial interest for the purpose of this section, which general laws may be supplemented or modified by regulations of the city council adopted by ordinance. If any member of the city council, department head or other officer of the City, or member of a board or commission shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter. No city councilmember, department head, or other officer or employee of the City shall engage in any employment activity or enterprise which is inconsistent, incompatible, or in conflict with his or her duties with the City. The city council may, by ordinance, resolution, or regulation, adopt rules for determining those outside activities which are inconsistent, incompatible, or in conflict with the official duties for the City for the various offices or employment positions involved.

ARTICLE VIII. ELECTIONS

SECTION 800. General Municipal Elections.

General municipal elections for the election of city councilmembers and for such other purposes as the city council may prescribe shall be held in the City on March 6, 2001, and on the first Tuesday in March in each odd numbered year thereafter.

SECTION 801. Special Municipal Elections.

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

SECTION 802. Procedure for Holding Elections.

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter.

SECTION 803. Initiative, Referendum and Recall.

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

ARTICLE IX. FISCAL ADMINISTRATION AND CONTRACTS

SECTION 900. Fiscal Year.

The fiscal year of the City government shall be as specified by ordinance of the City Council.

SECTION 901. Annual Budget; Preparation by the City Manager.

At such date as the city manager shall determine, each department head shall furnish to the city manager estimates of revenue and expenditures for the respective department, detailed in such manner as may be prescribed by the city manager. In preparing the proposed budget, the city manager shall review the estimates, hold conferences thereon with the respective department heads, and may revise the estimates.

SECTION 902. Budget, Submission to City Council.

At least thirty days prior to the beginning of each fiscal year, the city manager shall submit to the city council the proposed budget. After reviewing the proposed budget and making such revisions as it may deem advisable, the city council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the city clerk at least ten days prior to said hearing.

SECTION 903. Budget, Public Hearing.

At the time and place specified in the notice, the city council shall hold a public hearing on the proposed budget, at which interested persons shall be given the opportunity to be heard and present evidence. The hearing may be continued from time to time by the city council.

SECTION 904. Budget Adoption.

After the conclusion of the public hearing the city council shall make any revisions of the proposed budget it may deem appropriate. On or before the first date of the fiscal year, the city council shall adopt the budget for that fiscal year by resolution. If because of an emergency the city council does not adopt the budget in a timely fashion, one-twelfth of the amount of the total prior fiscal year's budget may be expended each month until the budget is adopted, provided that, if the city manager's estimates project a decrease in revenues from the prior fiscal year, the amount which may be expended in any month shall be reduced by one-twelfth of the total revenue decrease projected. A copy of the approved budget, certified by the city clerk, shall be filed with the director of finance and treasurer and a further copy shall be placed, and shall remain on file, in the office of the city clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

SECTION 905. Budget, Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes stated. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the city council may by resolution amend or supplement the budget by motion adopted by the affirmative votes of at least three members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available funds not included in the budget, or to cancel any appropriation not expended or encumbered.

SECTION 906. Tax Authority and Limits.

(a) Except as may be otherwise specifically provided in this Charter, the City shall have the full power to enact any taxes, assessments, fees, or any other measures for the purpose of raising revenue which charter cities in the State of California may enact, including, but not limited to business and license tax, franchise tax, sales and use tax, property tax, oil barrel tax, hazardous waste facility tax, and transient occupancy tax. The City may levy assessments on property for special benefits, capital construction and maintenance. The City may impose fees and charges for services and benefits received, including franchise fees, or to mitigate impacts caused by any activity, business, enterprise or development.

(b) The city council shall not levy a property tax for municipal purposes, except as otherwise provided in this section, in excess of the maximum amount permissible to the City on the effective date of this Charter, unless authorized by the affirmative votes of two-thirds of those electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors, or unless authorized for general law cities under the general laws of the State of California.

(c) There may be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, in addition to the above limit, a tax sufficient to meet all liabilities of the City for principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City.

(d) Special levies, in addition to the above limits, may be made annually for the purposes, within the limits, and to the extent that cities may make special levies in addition to their general tax limit, under the codes and statutes of the State as they may exist from time to time. The proceeds of any such special levy shall be used only for the respective purposes for which it is levied.

(e) The city council is specifically authorized to regulate municipal finance and adopt ordinances, resolutions and orders within the municipal affairs of the City, and to void enactments of the State of California contrary thereto, except as otherwise provided by the State Constitution.

SECTION 907. Tax Procedure.

All such taxes, assessments and fees shall be imposed, levied, and collected as prescribed by ordinance of the city council, and in accordance with the State Constitution.

SECTION 908. Bonded Debt Limit.

The City shall not incur an indebtedness for municipal improvements which exceeds in the aggregate fifteen percent of the assessed value of all real and personal property of the City. Within the meaning of this Section, "indebtedness" means bonded indebtedness of the City payable from the proceeds of taxes levied upon taxable property in the City.

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same.

SECTION 909. Revenue Retention.

Any revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by another level of government.

No person, whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority.

SECTION 910. Presentation of Demands.

All claims for damages against the City shall be governed by the general laws of the State of California, so far as such general laws are applicable. For all claims not otherwise covered by the general laws of the State of California, all claims for damages against the City must be verified and presented to the city clerk within ninety days after the occurrence, event or transaction from which the damages allegedly arose, or within such shorter time as is otherwise provided by law, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected by order of the city council and the date thereof given. City council may delegate its authority to reject claims to the city manager, city attorney, risk manager or other appropriate officer or department head. Any claim not approved or rejected by the city council within forty-five days of presentation of the claim to the city clerk shall be deemed rejected by operation of law.

All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the director of finance within ninety days after the last item of the account or claim accrued, but claims presented after ninety days may be honored in the discretion of the director of finance. The director of finance shall examine all claims presented. If the amount thereof is legally due and there remains on the books an unexhausted balance of an appropriation against which the same may be charged, the demand shall be approved and a warrant drawn therefor, payable out of the proper fund. Otherwise the claim shall be rejected, but any such rejection may be overruled by the city council.

All such demands must be approved by either the director of finance or the city manager. The director of finance shall transmit all demands, whether endorsed as approved or rejected, and warrants, if any, to the city council. If a demand is not one for an item included within an approved budget appropriation, prior to approval it shall require an amendment to the budget authorizing such payment. Any person dissatisfied with the city's refusal to approve any demand, in whole or in part, may present the same to the city council which, after examining into the matter, may approve or reject the demand in whole or in part.

SECTION 911. Registering Warrants.

Warrants which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and may bear interest from the date of registration at such rate as shall be fixed by the city council by resolution.

SECTION 912. Actions Against City.

No suit shall be brought for money or damages against the City or any board, commission or officer thereof until a claim or demand for the same has been presented as provided herein and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. The city attorney shall respond to any such suit on behalf of the City.

SECTION 913. Independent Audit.

The city council shall employ, at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the city council, and at such other times as the accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the city council may direct. As soon as practicable after the end of the fiscal year, a final audit and a report shall be submitted by such accountant to the city council, one copy thereof to be distributed to each member, one to the city manager, director of finance and general services, and city attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the city clerk where they shall be available for the general public.

SECTION 914. Purchasing Ordinance.

The city council may, by ordinance, establish procedures for the procurement of supplies, services, construction of public works, and the like. Such ordinance may provide requirements and procedures for competitive bidding, except that no competitive bidding shall be required for sole source contracts, contracts for professional services, or contracts undertaken in response to emergency situations. Such ordinance may also establish standards or qualifications for the screening of contractors or providers of goods and services by a prequalification process, so that in specified circumstances factors other than price may be considered, and a competitive registration process may be utilized based upon demonstrated competence and qualifications in planning, design, development, finance, construction, maintenance, improvement, repair and operational characteristics. The purchasing ordinance shall also establish criteria for insurance, bonding, liability, transferability, changes, terms, enforcement and other factors.

SECTION 915. Contracts; Execution.

The City shall not be bound by any contract, except as hereinafter provided, unless it is in writing, approved by the city council and signed on behalf of the City by the mayor and city clerk or by such other officer or officers as shall be designated by the city council. Any of said officers may sign a contract on behalf

of the City when directed to do so by ordinance, resolution, or other order of the city council.

By ordinance or resolution the city council may authorize the city manager to bind the City, with or without a written contract, including by purchase order, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the city council, and may impose a monetary limit upon such authority.

The city council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any department or public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or the city manager upon forms approved by the city manager and at rates fixed by the city council.

The provisions of this section shall not apply to services rendered by any person in the employ of the City.

Any easement, deed, covenant or other document subject to recordation shall be approved by the city council and city attorney provided that by ordinance or resolution the city council may delegate its authority therefor, and the authority to execute such documents, to the city manager.

SECTION 916. Granting of Franchises.

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, oil pipelines, television, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or for the operation of plants works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The city council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of any such grant or the making thereof, all subject to the provisions of this Charter. Nothing in this section, or elsewhere in this article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

SECTION 917. Resolution of Intention to Grant Franchise; Notice and Public Hearing.

Unless otherwise provided by ordinance of the city council, before granting any franchise, the city council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear

before the city council and be heard thereon. It shall direct the city clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation in the City. Said notice shall be published at least ten days prior to the date of hearing.

At the time set for the hearing the city council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the city council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. In connection with granting any franchise, city council may set and collect any franchise fee it deems reasonable, so long as such fee is not arbitrary or confiscatory.

SECTION 918. Term of Franchise.

Every franchise shall state the term for which it is granted, which shall not exceed fifteen years. Any franchise agreement entered into by the City and effective on the effective date of this Charter, whose term extends beyond twenty years after the effective date of this Charter, shall continue in effect for a period of fifteen years beyond the effective date of the Charter, and no further, provided that any franchisee whose franchise is in effect on the effective date of this Charter may seek an extension of the franchise from city council beyond the fifteen year limit, which city council may grant if it finds the fifteen year limit would impair the franchisee's ability to realize a reasonable return on investment of funds invested prior to the effective date of this Charter, in reliance on the franchise. City council may promulgate rules and regulations for the making and consideration of applications for such extensions of franchises.

SECTION 919. Franchise Inapplicable to City.

No franchise requirement of the City shall apply to the City, nor any subdivision, department, or division thereof.

SECTION 920. Eminent Domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public or private utility. In such a proceeding, no value shall be assigned to the franchise rights themselves, but only to any fixtures or equipment, or other interests arising out of the exercise of the franchise rights, as may be compensable under the general laws of the State of California.

Certified to be a true copy by Vivian M. Munson, Deputy City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 10—City of Vallejo

Amendments to the Charter of the City of Vallejo

[Filed with the Secretary of State February 26, 2001.]

SECTION 300 IS AMENDED TO READ AS FOLLOWS:

Section 300 Elective Offices.

The elective officers of the City shall be the Mayor and six Councilmembers.

SECTION 301 IS AMENDED TO READ AS FOLLOWS:

Section 301 Qualifications.

No person shall be eligible to or continue to hold any elective office of the City, either by election or appointment, unless he/she is an elector thereof or of territory lawfully annexed thereto for at least thirty (30) days next preceding the last day for filing of nomination papers as fixed by applicable State law, or an equivalent number of days prior to his/her appointment. The residency requirement provided herein shall apply with equal force to write-in candidates.

SECTION 302 IS AMENDED TO READ AS FOLLOWS:

Section 302 Term of Office.

Each elective officer shall hold office for a term of four (4) years from and after 7:00 p.m. of the first Tuesday in December next succeeding the general municipal election at which he/she was elected, and until his/her successor is elected and qualified.

SECTION 302.1 IS AMENDED TO READ AS FOLLOWS:

Section 302.1 Limitation of Terms of Office.

No elective officer of the City may hold office for more than two consecutive four-year terms as either Mayor or Councilmember, nor serve in both offices of Mayor and Councilmember for longer than three consecutive four year terms. No person who has held an elective office, or acted as an elected officer for more than two years of a term to which some other person was elected shall be elected to an elective office more than two consecutive subsequent terms. Any person who has served the maximum number of terms as set forth in this Section shall not serve again until at least two years have passed since his/her last date of holding office.

SECTION 303 IS AMENDED TO READ AS FOLLOWS:

Section 303 Vacancies, Filling of.

Any vacancy occurring in the office of Councilmember during an elected term of office (due to resignation, disqualification, inability to serve or death) shall be filled first by the unsuccessful candidate from the most recent general election receiving the next highest number of votes still remaining on the list of eligibles if the person is available, accepts and is qualified to serve. If no one on the list of eligibles is available, accepts or is ruled unqualified to serve, the Council, by majority vote of the remaining members, shall appoint a qualified person to fill the vacancy. Any such appointee shall hold office until 7:00 p.m. on the first Tuesday in December next succeeding the date of the next general municipal election and until his/her successor qualifies. At the next general municipal election following

any vacancy, a successor shall be elected to serve the remainder of the unexpired term. Whenever a vacancy exists in the office of Mayor during an elected term of office (due to resignation, disqualification, inability to serve or death), the vacancy shall be filled by the Vice Mayor. The Vice-Mayor shall serve a term limited by the existing procedures now being utilized by the Council to elect a Vice-Mayor. At the next general or “special” municipal election following any vacancy, a successor shall be elected to serve the remainder of the unexpired term.

SECTION 304 IS AMENDED TO READ AS FOLLOWS:

Section 304 Vacancy, What Constitutes.

An elective office shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within fifteen days after his/her certificate of election or appointment has been received, dies, resigns, ceases to be a resident of the City, is absent continuously from the City for a period of more than thirty days without permission from the Council, misses three consecutive regular meetings of the Council without permission from the Council, is convicted of a felony, is judicially determined to be incompetent, forfeits the office under any provision of this Charter, or is removed from office by judicial procedure.

SECTION 305 IS AMENDED TO READ AS FOLLOWS:

Section 305 Compensation.

The Mayor and each Councilmember shall receive the compensation heretofore fixed by Charter until changed by Charter amendment or ordinance. Such compensation fixed by ordinance shall not exceed the amount which the City Council of a general law city, of comparable population, can prescribe under the provisions of State law. In addition, the Mayor and each Councilmember shall receive reimbursement for itemized routine and ordinary expenses incurred in official duty or such reasonable and adequate, as identified in the city’s Administrative Rules, in an amount as may be established by ordinance, which amount shall be deemed to be reimbursement to them of routine and ordinary expenses imposed upon them by virtue of their office.

SECTION 306 IS AMENDED TO READ AS FOLLOWS:

Section 306 Mayor’s Allowance.

In addition, the Mayor shall receive for use in the discharge of the duties and obligations of the office, an allowance to be fixed by ordinance, payable in equal monthly installments, for which vouchers need not be furnished.

SECTION 307 IS AMENDED TO READ AS FOLLOWS:

Section 307 Council.

The Council shall be composed of the Mayor and six Councilmembers. The Council shall be the governing body of the City. All powers of the City shall be vested in the Council except as otherwise provided by law or in this Charter.

SECTION 308 IS AMENDED TO READ AS FOLLOWS:

Section 308 Meetings of the Council.

At 7:00 p.m. on the first meeting in December following each regular municipal election, the Council shall meet at the established Council meeting place, at which

time and place the newly elected Members of Council shall assume the duties of their office. Thereafter, the Council shall meet at least forty (40) times before the next meeting in December following and the Council shall meet at least two (2) times each month. A schedule of regular meetings shall be adopted at the first meeting in December each year for a period of two (2) years hence. Special meetings may be held at the regular place of meeting, either on the call of the Mayor, or on the request of three Members of Council upon twenty-four (24) hours' written notice to each member of the Council. Such notice shall be personally served or left at a place which shall be designated by each Member of Council, provided, however, that such notice may be waived by the written consent of all the members of the Council. Regular meetings may be held at places other than the regular meeting place only in an emergency in which the regular meeting place is untenable, or upon the posting of a public notice at the regular meeting place that the Council is hereby meeting elsewhere, to be designated on the notice, for some purpose of public convenience. Special meetings may be held at locations in the City other than the regular meeting place as determined appropriate by the Council and specified in the notice calling for the special meeting. All regular or special sessions of the Council shall be open to the public, except for executive sessions permitted by law.

SECTION 319 IS AMENDED TO READ AS FOLLOWS:

Section 319 The Vice-Mayor.

At its first meeting in December of each year, the Council shall elect from amongst its members a Vice-Mayor who shall serve for a term of one year and until a successor is elected by the Council. In addition to the regular duties as a Member of Council, the Vice-Mayor shall perform the duties of the Mayor during the Mayor's absence or disability, and may perform at any time any duty of the office of the Mayor as may be delegated by the Mayor.

Article IV

Officers Appointed by the Council

SECTION 400 IS AMENDED TO READ AS FOLLOWS:

Section 400 City Manager.

There is hereby created the office of City Manager, who shall be the chief executive and administrative officer of the City. He/She shall be appointed by resolution approved by at least a majority of all the members of the Council solely on the basis of proven executive and administrative qualifications. He/She must be a citizen of the United States, need not when appointed be a resident of the City or State, but shall become a resident of the City within 90 days after the appointment, and remain a resident during his/her tenure. No member of the Council shall be eligible for appointment as City Manager or acting City Manager during the term for which he/she was elected or for one year thereafter. The City Manager shall have the duties and powers prescribed by this Charter or by ordinance.

SECTION 401 IS AMENDED TO READ AS FOLLOWS:

Section 401 City Attorney.

There shall be a City Attorney, appointed by the Council, who shall serve as legal advisor to the Council, the City Manager, and all City departments, offices and agencies, shall represent the City in legal proceedings, and shall perform other duties as directed by the Council. He/She shall have been at the time of his/her appointment admitted to practice and engaged in the practice of law in the State of California. The Council may appoint, or empower the City Attorney, at his/her request to employ, without regard to civil service provisions, special legal counsel, appraisers, engineers, and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding, or other legal matter.

SECTION 407 IS AMENDED TO READ AS FOLLOWS:

Section 407 Removal of Appointive Personnel.

d. Before the City Manager may be finally removed, he/she may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than 15 days nor later than 30 days after the request is filed. The City Manager may file a written reply with the Council not later than five days before the hearing.

SECTION 408 IS AMENDED TO READ AS FOLLOWS:

Section 408 Acting City Manager.

By letter filed with the City Clerk, the City Manager shall designate (if this classification or position exists and the Manager desires), and subject to approval of the Council, the Assistant City Manager to exercise the powers and perform the duties of the City Manager during his/her temporary absence or disability. The Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager shall return or his/her disability shall cease; provided, however, that the Council shall designate an acting City Manager pending a new appointment whenever the position is vacant for any other cause.

Article V

City Manager

SECTION 500 IS AMENDED TO READ AS FOLLOWS:

Section 500 Powers and Duties of City Manager.

The City Manager shall be the chief administrative officer of the City. He/She shall be responsible to the Council for the administration of all City affairs placed in his/her charge by or under this Charter or by ordinance not contrary to this Charter. He/She shall have the following powers and duties:

a. He/She shall appoint, and when he/she deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law or this Charter. He/She may authorize any administrative officer who is subject to his/her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

b. He/She shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

c. He/She shall attend all Council meetings unless excused due to temporary absence or disability. In the event of such absence or disability, a designated representative shall attend the Council meetings on the City Manager's behalf. The City Manager or designated representative shall have the right to take part in discussion, but may not vote.

d. He/She shall see that all laws, provisions of this Charter, and acts of the Council, subject to enforcement by him or by officers subject to his/her direction and supervision, are faithfully executed.

e. He/She shall prepare and submit the annual budget and capital program to the Council.

f. He/She shall submit to the Council and make available to the public a complete report on finances and administrative activities of the City as of the end of the fiscal year.

g. He/She shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his/her direction and supervision.

h. He/She shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he/she deems advisable.

i. He/She shall investigate the operations of the departments and other agencies of the City and all contracts to which the City is a party, and assure proper performance.

j. He/She shall investigate complaints concerning utility operations and see that all permits, privileges and franchises granted by the City are faithfully performed.

k. When directed by the City Council, he/she shall represent the City in its inter-governmental relations, and negotiate contracts for joint governmental actions, subject to Council approval,

l. He/She shall perform such other duties as are specified in this Charter or may be required by the Council.

SECTION 501 IS AMENDED TO READ AS FOLLOWS:

Section 501 Department Heads Responsible to City Manager.

The heads of the administrative departments under the City Manager shall be directly responsible to him/her for the efficient administration of their respective departments. The City Manager may designate acting department heads when necessary to assure the continuity of the City's business. He/She shall have the power, with the approval of the Council, and without reference to personnel provisions of this Charter, to employ experts or consultants to perform work or give advice connected with the departments of the City when he/she finds such work or advice necessary.

SECTION 502 IS AMENDED TO READ AS FOLLOWS:

Section 502 Emergency Powers.

In the case of general conflagrations, riots, floods, or other emergencies menacing life or property, the City Manager shall marshal all the forces of the different departments of the City for the maintenance of the general security, and shall have the power to deputize or otherwise employ without reference to Civil Service such other persons as he/she may consider necessary for the purpose of protecting the City and its residents; provided, that in an emergency in which military control is established under State or National law, the City Manager shall exercise his/her emergency powers subject to lawful military authority.

SECTION 503 IS AMENDED TO READ AS FOLLOWS:

Section 503 Noninterference.

Except for the purpose of inquiry into the affairs of the City and the conduct of any City department, office or agency, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager and neither the Council or its members shall give orders to any officer or employee either publicly or privately nor shall they attempt to coerce or influence the City Manager in respect to any contract or purchase of supplies or any other administrative action or in any manner direct or request the appointment of any person to, or his/her removal from, office by the City Manager or his/her subordinates. Violation of the provisions of this Section by a member of the Council shall be a misdemeanor, conviction of which shall immediately result in forfeiture of the office of the convicted member.

Article VI

Administrative Organization

SECTION 600 IS AMENDED TO READ AS FOLLOWS:

Section 600 Administrative Organization Authorized.

The Council shall by ordinance provide the form of organization through which the functions of the City are to be administered. Any combination of duly authorized duties, powers and functions which in the judgment of the Council will provide the most efficient and economical service possible, consistent with the public interest and in keeping with accepted principals of municipal administration may be authorized by such ordinance. All departments, offices, and agencies of the City except the office of City Attorney shall be under the direction and supervision of the City Manager and shall be administered by an officer or employee appointed by him/her subject to his/her discretion. With the consent of the Council, the City Manager may serve as the head of one or more departments, offices or agencies or may appoint one person as the head of two or more of them.

Article VII

Fiscal Administration

SECTION 701 IS AMENDED TO READ AS FOLLOWS:

Section 701 Budget Preparation.

The City Manager and City Council, shall prepare a five year strategic and financial plan to be reviewed and updated annually. The annual budget shall correlate to the proposed plan.

At least 45 days prior to the beginning of each fiscal year, the City Manager shall submit to the Council a budget of proposed expenditures and estimated revenues. This shall include a general fund budget in which proposed expenditures shall not exceed estimated revenues accompanied by an explanatory budget message in such form as he/she deems desirable or as the Council may require. For such purpose, the City Manager, on such schedule and under such terms as he/she may prescribe, shall obtain from the head of each department or other agency of the City estimates of revenue and expenditure in such detail and with such supporting plans and data as he/she may require. The City Manager may revise such estimates in any manner he/she deems advisable. The explanatory budget message of the City Manager to the Council shall explain the budget, both in fiscal terms and in terms of work programs, shall outline the proposed financial policies of the City for the ensuing fiscal year, shall propose priorities for capital expenditures, and shall describe other important features of the budget plan. It shall state the reasons for salient changes from the previous year in cost and revenue, items shall explain any major changes in financial policy, and shall enable the Council to compare the prior and current years' revenues and expenditures to which such proposed revenues and expenditures relate. Estimates of revenue shall include surpluses to be carried over from the current year, plus miscellaneous revenues.

SECTION 702 IS AMENDED TO READ AS FOLLOWS:

Section 702 Council Hearing and Approval.

After submission of the budget by the City Manager, the Council shall publish in one or more newspapers of general circulation in the City the following: a general summary of the budget, information as to times and places where copies of the budget are available for inspection by the public, and the time and place for a public hearing on the budget which shall be no less than two weeks after such publication.

After the public hearing, the Council may revise the budget in any manner it finds necessary and shall adopt a budget for the ensuing fiscal year no later than the last day of the current fiscal year.

If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures

from the funds indicated and shall constitute a levy of the property tax therein proposed.

SECTION 704 IS REPEALED.

Section 704 Tax Rate. Repealed.

SECTION 705 IS REPEALED.

Section 705 Assessment. Repealed.

SECTION 714 IS AMENDED TO READ AS FOLLOWS:

Section 714 Control and Use of Public Utilities Funds.

All funds derived from the operation of any public utility or enterprise by the City shall be deposited in the City treasury, to be managed and expended in accordance with the following policies:

a. From the proceeds of the operation of the utility or enterprise, there shall first be provisions for payment of all personnel-related costs.

b. There shall next be provided funds required to redeem and pay interest on any bond issued for that utility or enterprise which will become due and payable during the next fiscal year.

c. There shall next be provision for current non-personnel operating expenditures, including current maintenance of the physical plant; purchase of materials; supplies and equipment; advertising and the cost of services rendered by other City Departments.

d. There shall next be provisions for additions and improvements foreseen as necessary to meet future requirements of the public, which is not to exceed in any one year 10 percent of the established value of the utility or enterprise.

e. There shall next be paid to the general fund an amount equivalent to franchise fees and City taxes as if the utility or enterprise were privately owned, and for the fair value of any commodity or resource received from the City to make possible the operation of the General Fund.

f. There shall next be provided an adequate reserve to finance replacements required by the normal depreciation of the utility's or enterprise's plant and equipment.

g. All remaining operating profits, the amount of which has been determined by the City Manager with the approval of the City Council, shall be transferred to the general fund.

SECTION 715 IS AMENDED TO READ AS FOLLOWS:

Section 715 Accounting System.

The City Manager shall direct the establishment and supervise the maintenance of a uniform system of accounting, applicable to all departments and other agencies of the City, conforming to modern and accepted practices of public and governmental accounting, which shall be adequate to account for all money on hand and for all income and expenditures in such detail as will provide complete and informative data concerning the financial affairs of the City, and in such manner as will be readily susceptible to audit and review.

SECTION 716 IS AMENDED TO READ AS FOLLOWS:**Section 716 Authorization and Control of Expenditure.**

No expenditure of City funds shall be made except for the purposes and in the manner specified in an appropriation by the Council. The City Manager shall establish and direct such systems of internal control and audit as he/she may find necessary to insure the fulfillment of the purpose of this Section.

SECTION 718 IS AMENDED TO READ AS FOLLOWS:**Section 718 Contracts to Next Lowest Bidder.**

If any contractor fails to enter into any contract awarded to him/her after public advertisement and competitive bidding, the Council may direct the re-advertising of the original proposal or any modification thereof, or may award the contract to the next lowest responsible bidder without re-advertising, provided that such award is not made more than 90 days after the opening of bids.

SECTION 721 IS AMENDED TO READ AS FOLLOWS:**Section 721 Independent Audit.**

The Council shall employ at the beginning of each fiscal year an independent public accountant who shall at such time or times as may be specified by the Council and at such other times as he/she shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds, and of such other officers, employees or departments as the Council may direct. The Council may direct that such accountant may conduct the independent audit throughout the fiscal year and make reports at intervals required by the Council, but a report for the entire fiscal year shall be filed within 45 days after the closing of the books for said fiscal year, and copies of such reports shall be filed with the Council and with the City Manager, and shall be available for public inspection and review.

SECTION 724 IS REPEALED.

Section 724 Disbursements. Repealed.

Article VIII**Personnel Administration and Civil Service****SECTION 802 IS AMENDED TO READ AS FOLLOWS:****Section 802 Provisional Appointments.**

Provisional appointments to positions in the competitive civil service, in the absence of an appropriate eligible list may be made pending the creation of an eligible list, but such provisional appointments may not exceed six months and may not be renewed or extended.

SECTION 805 IS AMENDED TO READ AS FOLLOWS:**Section 805 Continuation.**

The rules of the Civil Service Commission shall remain effective until modified as authorized by charter or ordinance.

SECTION 806 IS AMENDED TO READ AS FOLLOWS:**Section 806 Improper Political Activity.**

No City officer or employee shall engage in or participate in any political activity which the City Council, consistent with law, may proscribe by ordinance, nor shall any City officer or employee engage in or participate in any political activity contrary to any general law applicable to such officer or employee. However, a City employee holding a position in the competitive service and filing as a candidate for a compensated City office shall be required to request, and he/she shall be granted, a leave of absence without pay until the date of the election and until his/her term of office expires if he/she is elected.

SECTION 808 IS AMENDED TO READ AS FOLLOWS:**Section 808 Subpoena Power by Civil Service Commission.**

The Civil Service Commission shall have the power to issue subpoenas to compel the production of books, papers and documents and to take testimony on any matter pending before it. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, a majority of the Commission may find him/her in contempt, and shall have the power to take proceedings in that behalf provided by the general law of the State.

SECTION 809 IS AMENDED TO READ AS FOLLOWS:**Section 809 Employer-Employee Relations, Mediation Arbitration.**

b. The City Manager and/or his/her designated representative(s) shall negotiate in good faith with the recognized employee organizations. The City Council may appoint a committee which shall be composed solely of Council members to assist the City Manager and/or his/her designated representative(s) in said negotiations if the Council in its judgment deems such in the best public interest.

j. The provisions of this Section shall not be construed as making any of the provisions of Section 923 of the Labor Code of the State of California applicable to City employees. The provisions of this Section pertaining to arbitration shall be construed as an "arbitration agreement" for the purpose of making applicable to the extent not in conflict herewith the provisions of Chapter 1 (commencing with Section 1280), Title 9, Part 3 of the Code of Civil Procedure of the State of California. Any employee who at any time participates in a strike or other work stoppage or other concerted work-related action against the City of Vallejo will be considered to have terminated his/her employment with the City and neither the Council nor the Civil Service Commission shall have any power to provide by reinstatement or otherwise for the return or re-entry of said employee into the City service except as a new employee who is employed in accordance with the regular employment practices of the City then in effect for the particular position of employment. The question of whether an employee charged with participating in a strike or work stoppage or other concerted work related action did, in fact, engage in such conduct shall be determined through the disciplinary procedures applicable to employees generally.

Article XI

General Provisions

SECTION 1101 IS AMENDED TO READ AS FOLLOWS:

Section 1101 Prevailing Wage.

Every contract for the construction of public works to be performed at the expense of the City must provide that the contractor, and all sub-contractors shall pay their employees on said work a salary or wage at least equal to the prevailing salary or wage for work of similar character in the locality in which the public work is performed. The contractor or subcontractor shall as a penalty forfeit to the City an amount as provided by State law for each calendar day or portion thereof for each employee paid less than the prevailing salary or wage for any public work done under the contract, and all contracts for public works awarded by the City shall include a stipulation to this effect.

SECTION 1103 IS AMENDED TO READ AS FOLLOWS:

Section 1103 Oaths and Affirmations.

Every officer of the City and every member of a policy and rule making and appellate board and commission (including the secretaries thereof) shall have, in all matters relevant to the office, the power to administer oaths and affirmations.

SECTION 1104 IS AMENDED TO READ AS FOLLOWS:

Section 1104 Suits Against the City.

No suit shall be brought on any claim for money or damages against the City or any of its agencies unless a demand has first been presented to the appropriate official and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Except where a shorter period of time is otherwise provided by law, all claims for damages against the City must be presented within six months after the occurrence or transaction on which the claim is based.

SECTION 1106 IS AMENDED TO READ AS FOLLOWS:

Section 1106 Oath of Office.

Every officer of the City before entering upon the duties of his/her office shall take the oath of office as provided by the Constitution of this State.

SECTION 1107 IS AMENDED TO READ AS FOLLOWS:

Section 1107 Definitions.

Unless the provision or the context other requires, as used in this Charter:

- a. "Shall" is mandatory and "may" is permissive.
- b. "City" is the City of Vallejo and "department," "board," "commission," "agency," "officer" or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Vallejo.
- c. "County" is the County of Solano.
- d. "State" is the State of California.
- e. "Council" is the City Council of the City of Vallejo.
- f. "Member" or "Member of the Council" means any one of the seven members of the Council, including the Mayor.

g. “Officer” means the elective and appointive officers provided in this Charter and the administrative head of any department or agency or major subdivision thereof created by authority of Article VI.

SECTION 1111 IS AMENDED TO READ AS FOLLOWS:

Section 1111 Effective Date.

For the purposes of nominating and electing the Mayor and members of the City Council, this Charter shall take effect from the time of its approval by the State Legislature. For all other purposes, it shall take effect at 8:00 p.m. on the Tuesday next succeeding the date of the general municipal election after its approval by the Legislature.

Certified to be a true copy by Allison Villarante, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 11—City of Redondo Beach

Amendments to the Charter of the City of Redondo Beach

[Filed with the Secretary of State March 29, 2001.]

Section 19 of Article XIX is amended to read as follows:

Sec. 19. Public works, contracts.

Every contract involving an expenditure of more than fifty thousand dollars (\$50,000) for public works projects, including the construction of improvements of public buildings, streets, drains, sewers, utilities, parks and playgrounds shall be let either to: (1) the lowest responsible bidder, after notice by publication in the official newspaper by one or more insertions, the first of which shall be published at least ten (10) days before the time for opening bids; or (2) the best value design-builds entity or best value design-build-operate entity responding to a request for proposals.

Public works projects of fifty thousand dollars (\$50,000.00) or less may be let to contract by informal bid procedures as shall be set by the City Council by ordinance.

Public works projects of fifteen thousand dollars (\$15,000.00) or less may be performed by employees of the City by force account, by negotiated contract or by purchase order.

The Council may reject any and all bids received whenever in the opinion of the City Council:

(a) The bid or bids do not strictly comply with the notice and specifications.
 (b) The Council finds and determines that the proposed project or purchase should be abandoned.

(c) The Council finds and determines that the materials may be purchased more reasonably on the open market and the work done cheaper by day or City labor.

(d) The Council determines that the bids are higher than anticipated and a new call for bids would result in savings to the City.

(e) The Council determines that it would be in the best interest of the City to delay the work or purchase for an indefinite period of time.

(f) The best interests of the City would be served by a rejection of all bids.

(g) The proposal is not suitable for the project.

Certified to be a true copy by Greg Hill, Mayor and Sandy Forrest, City Clerk.
Date of General Municipal Election: March 6, 2001.

Charter Chapter 12—City of Napa

Amendments to the Charter of the City of Napa

[Filed with the Secretary of State April 3, 2001.]

Section 20 is repealed:

Circulation of Petitions: Petition Circulator—Residency.

Section 20. (Repealed March 6, 2001.)

All sections of the Charter, or parts thereof, in conflict with the repeal of this section are repealed.

Section 22 is repealed:

Circulation of Petitions: Petition Circulator—Registration.

Section 22. (Repealed March 4, 1997.)

All sections of the Charter, or parts thereof, in conflict with the repeal of this section are repealed.

Section 101 is amended to read as follows:

Public works to be done by contract.

Section 101. In the erection, improvement or repair of all public buildings and works, in all street and sewer work, and in all work in and about streams or waterfronts, or, in or about embankments or other works for protection against overflow and erosion, and in furnishing any supplies or materials for the same when the expenditure required exceeds the sum prescribed by Section 20162 of the Public Contract Code of the State of California, or as amended, the same shall be done by contract and shall not be let to other than the lowest and best bidder as determined by the City Council after advertising for sealed proposals for the work contemplated, or supplies or materials required, for five consecutive days in some newspaper printed and published in the City of Napa, or after posting notice inviting sealed proposals therefor for five days on or near the Council Chamber door. Such notice shall distinctly and specifically state the work contemplated to be done or supplies or materials to be furnished; provided, however, the City Council may reject any and all bids, if deemed excessive, and re-advertise for bids or provide for the work to be done by the proper City department, or the supplies or materials to be purchased in the open market; but in no case shall such supplies be

bought at a price as high as the lowest bid received from the responsible bidder. In case no bid is received, the City Council may likewise provide for the work to be done by the proper department or the supplies to be purchased in the open market.

The City Council, in its discretion, shall have the authority to adopt, by ordinance or resolution, criteria and requirements for determining the lowest and best bidder in the award of City contracts under this section and otherwise, including but not limited to, criteria and requirements; (1) affording preference in the award of City contracts to businesses located and persons residing within the City of Napa; and (2) requiring non-discrimination on basis of race, religion, color, national origin, gender, creed or affiliation by persons and businesses bidding on and receiving City contracts. The City Council, in its discretion, also shall have the authority to adopt all or part of the State of California Uniform Construction Cost Accounting Act, Public Contract Code Section 22000, et seq., as amended. If the City Council adopts the expenditure limits and requirements set forth in Public Contract Section 22032, as amended, those limits and requirements shall prevail over the limits and requirements otherwise set forth in Public Contract Code Section 20162 and this section.

Notwithstanding any other provision of this Section, and in addition to the exceptions recognized by at law, the City Council shall have the authority to waive any and all requirements of this section for the erection, improvement or repair of recreational facilities, excepting any ancillary building, parking lot and off-site improvement exceeding \$75,000.00, if the City Council determines by a four-fifths (4/5) vote that one or more community organizations and/or volunteers will perform a substantial portion of the labor to be performed and/or a substantial portion of the materials will be donated at no cost or substantial discount or be paid for by independent contributors or fundraising efforts, and that such voluntary labor and/or donated materials will substantially decrease the cost to the public for such project.

Certified to be a true copy by Ed Henderson, Mayor, and Pamyla Nigliazzo, City Clerk.

Date of Municipal Election: March 6, 2001.

Charter Chapter 13—City of San Jose

Amendments to the Charter of the City of San Jose

[Filed with the Secretary of State April 16, 2001.]

SECTION 1202. SUBMISSION OF CAPITAL IMPROVEMENT PROGRAM; CONTENTS.

At least thirty (30) days prior to the beginning of each fiscal year, or at such earlier time as the Council may specify, the City Manager shall prepare and shall submit to the Council a capital improvement program for the five (5) fiscal years immediately following the fiscal year within which such program is submitted to Council. On or before the day that he or she submits such program to the Council, the City Manager shall also file a copy of the program with the Planning Commission of the City. Such capital program shall include:

- (a) A clear summary of its contents;
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years immediately following the fiscal year within which such program is submitted to the Council with appropriate supporting information as to the necessity of such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (d) Such other information as the City Manager may deem desirable.

SECTION 1203. ACTION ON CAPITAL PROGRAM.

Upon receipt of the copy of the capital improvement program prepared by the City Manager, the Planning Commission shall consider the program and, at least ten (10) days prior to the time fixed by Council for a public hearing on the capital program, shall submit to the Council a written report setting forth its findings and recommendations respecting such program. The Planning Commission, in its report may recommend such additions, deletions or other amendments as it deems desirable. If it should recommend any capital improvements different from or additional to those proposed by the City Manager, it shall set forth, in its report, the estimated cost thereof and the manner in which it proposes that the same shall be financed.

The Council shall fix a time and place for a public hearing on the capital program as submitted by the City Manager and upon such amendments or changes, if any, as shall have been submitted as aforesaid by the Planning Commission at least ten (10) days prior to the time fixed by Council for a public hearing on the capital program. The Council shall cause a notice of such public hearing to be published not less than ten (10) days prior to said hearing by at least one insertion in a newspaper of general circulation in the City. Copies of the capital program as submitted by the City Manager, and copies of such report as may have been submitted by the Commission, shall be filed and available for inspection by the public in the office of the City Clerk for at least ten (10) days prior to said public hearing. The notice of such public hearing shall state the time and place of hearing and the

times and place when and where copies of the capital program as submitted by the City Manager and the report of the Planning Commission will be available for inspection by the public. At the time and place so advertised or at any time or place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the capital program as submitted by the City Manager, and on the written report of the Planning Commission, at which interested persons desiring to be heard shall be given reasonable opportunity to be heard.

Upon conclusion of such hearing, the Council shall adopt such a capital program, for the five (5) fiscal years covered by the City Manager's proposed capital program with such amendments as it may deem desirable. Upon its adoption and until adoption of a new budget and a new five (5) year capital program, such capital program, as adopted by the Council, shall serve as a general guide to the Council and to the City administration in the planning and scheduling of capital improvements. From time to time, however, the Council may authorize such departures therefrom as it may deem necessary or desirable.

Section 1217 is amended to read as follows:

SECTION 1217. Bid Requirements.

Contracts are to be let to the lowest responsible bidder as set forth below:

(a) **PUBLIC WORKS PROJECTS.** When the expenditure required for a specific "public works project" (hereinafter defined), excluding the cost of any materials, supplies or equipment which City may have acquired or may separately acquire therefor, will exceed the greater of One Hundred Thousand Dollars (\$100,000) or the amount which a general law city of the State of California may legally expend for a "public project" (as defined by State law) without a contract let to a lowest responsible bidder after notice, it shall be let to the lowest responsible bidder after notice.

For purposes of this Section, "public works project" shall mean a project for the construction, erection, improvement or demolition of any public building, street, bridge, drain, ditch, canal, dam, tunnel, sewer, water system, fire alarm system, electrical traffic control system, street lighting system, parking lot, park or playground. "Public works project" shall not mean or include maintenance of any public works project, or any repairs incidental to such maintenance, or the planting, care or maintenance of trees, shrubbery or flowers.

(b) **NOTICE REQUIREMENT AND PROCEDURE.**

(1) The notice inviting bids shall set a date for the opening of bids, and shall be published at least once, at least ten (10) days before the date set for opening of bids, in a newspaper of general circulation in the City.

(2) All bids, including such bidder's security as may be required, shall be presented under sealed cover.

(3) If the successful bidder fails to execute the contract within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of the security required, if any, may be declared forfeited to the City and

may be collected and paid into its General Fund, and all bonds so forfeited may be prosecuted and the amount thereof collected and paid into such fund.

(4) All bids shall be publicly opened, and the aggregate bid of each bidder declared at a time and place specified in the notice inviting bids.

(5) The Council shall have the right to waive any informalities or minor irregularities in bids or bidding.

(c) APPRENTICESHIP PROGRAM. Nothing herein shall preclude the City from including in any contract provisions that require contractor participation in an apprenticeship program for at-risk youth.

(d) SELECTION OF LOWEST RESPONSIBLE BIDDER. If no bids are received, the Council may readvertise, or have the “public works project” for which no bids are received done, without further complying with this Section.

(1) If two or more bids are the same and the lowest, the Council may accept the one it chooses.

(2) In its discretion, the Council may reject any or all bids presented. If it rejects all bids, the Council may, in its discretion, readvertise.

(3) If, after rejecting all bids for any “public works project” and after readvertising for bids, the Council finds and declares that the bids were excessive, it may have such “public works project” done by City employees without further complying with this Section.

(e) SECTION NOT APPLICABLE. The provisions of this Section shall not apply to any of the following:

(1) Any public work done for the City by any public or governmental body or agency;

(2) Any public work done by any public utility which is either publicly owned or is regulated by the Public Utilities Commission of the State of California where such work involves any property of such public utility or is otherwise of direct concern to both the City and such public utility;

(3) Any public work done by a subdivider, developer or owner of real property in connection with the subdivision or development by him or her of any real property, notwithstanding the fact that such may be subject to entire or partial reimbursement from the City;

(4) Work involving highly technical or professional skill where the peculiar technical or professional skill or ability of the person selected to do such work is an important factor in his or her selection;

(5) Expenditures deemed by the Council to be of urgent necessity for the preservation of life, health or property, provided the same are authorized by resolution of the Council adopted by the affirmative vote of at least eight (8) members of the Council and containing a declaration of the facts constituting the urgency; and

(6) Situations where solicitation of bids would for any reason be an idle act.

(f) PURCHASE OF SUPPLIES MATERIALS AND EQUIPMENT. The procedures for the purchase of supplies materials and equipment shall be as prescribed by ordinance.

Certified to be a true copy by Ron Gonzalez, Mayor, and Patricia L. O'Hearn, City Clerk.

Date of Municipal Election: November 7, 2000.

Charter Chapter 14—City of Los Angeles

Amendments to the Charter of the City of Los Angeles

[Filed with the Secretary of State May 2, 2001.]

Section 1070 is amended to read:

Sec. 1070. Rights and Due Process Procedures.

(a) Applicability; Rights. As used in this section, member shall mean an employee of the Police Department who has peace officer status as defined in California Penal Code Section 830.1. The provisions of this section shall not apply to any member of the Police Department who has not completed the period of probation in his or her entry level position, as provided in Section 1011(a). Non-tenured Police officers, where otherwise entitled by law to a hearing or appeal with regard to proposed or imposed discipline, shall be provided a hearing or appeal under procedures promulgated by the Chief of Police.

The rights of a member, except the Chief of Police and any other member in a position exempt from civil service, to hold his or her office or position and to receive compensation attached to the office or position is hereby declared to be a substantial property right of which the holder shall not be deprived arbitrarily or summarily, nor other than as provided in this section. No member shall be suspended, demoted in rank, suspended and demoted in rank, removed, or otherwise separated from the service of the department (other than by resignation), except for good and sufficient cause shown upon a finding of guilty of the specific charge or charges assigned as cause or causes after a full, fair, and impartial hearing before a Board of Rights, except as provided in subsections (b) and (i). No case of suspension with loss of pay shall be for a period exceeding 65 working days.

(b) Temporary Relief from Duty; Suspension; Demotion. After following predisciplinary procedures otherwise required by law, the Chief of Police may:

(1) temporarily relieve from duty any member pending a hearing before and decision by a Board of Rights on any charge or charges pending against the member, except that a member so relieved shall not suffer a loss of compensation until 30 days after the date on which the member was served with the charge or charges, except as provided for in subsection (q) or whenever the employee is temporarily relieved of duty on a new charge or charges while relieved of duty or serving a suspension based on a prior charge or charges. There shall be a calendar priority for Board of Rights hearings when a member is subject to relief from duty pending a hearing. The Chief of Police in his or her sole discretion shall have the

power to cancel temporary relief from duty, or following relief from duty, to restore the member to duty with or without restrictions pending hearing; or

(2) suspend the member for a total period not to exceed 22 working days with loss of pay and with or without reprimand, subject to the right of the member to a hearing before a Board of Rights as provided in this section; or

(3) demote the member in rank, with or without suspension or reprimand or both, subject to the right of the member to a hearing before a Board of Rights as provided in this section; or

(4) demote the member in rank, with or without temporary relief from duty or cancellation of such relief from duty, subject to the right of the member to a hearing before a Board of Rights as provided in this section.

In the event the member suspended and/or demoted in rank under this subsection files an application for a hearing by a Board of Rights as provided in this section, the suspension and/or demotion shall automatically be stayed pending hearing and decision by the Board of Rights. Provided, however, in the case of any member demoted in conjunction with a temporary relief from duty or cancellation of such relief from duty, the demotion shall not be stayed pending a hearing before and decision by a Board of Rights unless the accused specifically requests in the written application that the Board consider the demotion in conjunction with the appeal of the temporary relief from duty or cancellation of such relief from duty. In the event that the member fails to apply for a hearing within the period prescribed, the member shall be deemed to have waived a hearing, and the suspension and/or demotion shall remain effective unless the Chief of Police requires that a hearing be held.

(c) Limitations Periods. No member shall be removed, suspended, demoted in rank, or suspended and demoted in rank for any conduct that was discovered by an uninvolved supervisor of the department more than one year prior to the filing of the complaint against the member, except in any of the following circumstances:

(1) If the act, omission, or allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the member waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the criminal investigation is a multi jurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(6) If the investigation involves a matter in civil litigation where the member is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the member.

(9) If a predisciplinary notice is required or utilized and the response results in additional investigation, the one-year period shall be tolled while the additional investigation is pending.

(d) Complaint. Any order of relief from duty, cancellation of relief from duty pending a Board of Rights hearing, suspension, demotion in rank, or suspension and demotion in rank shall contain a statement of the charges assigned as causes. The Chief of Police shall, within five days after the order is served as provided in subsection (e), file with the Board of Police Commissioners a copy of a verified written complaint upon which the order is based, with a statement that a copy of the order and verified complaint was served upon the accused. The complaint shall be verified by the oath of the Chief of Police and shall contain a statement in clear and concise language of all the facts constituting the charge or charges.

(e) Service. The service of any notice, order, or process mentioned in this section, other than service of subpoena, may be made by handing the accused a copy personally. If a copy of any notice, order or process cannot with reasonable diligence be personally served, service may be made by United States mail.

(f) Application for Hearing. Within five days after personal service upon the accused of a copy of the verified complaint, or within ten days after service in any other manner provided for in this section, the member may file with the Chief of Police a written application for a hearing before and decision by a Board of Rights. A Board of Rights is considered a de novo hearing.

(g) Time and Place of Hearing. Upon the selection of a Board of Rights, the Chief of Police shall set the time for (not less than 10 nor more than 30 days thereafter) and designate a place where the hearing is to be held, and shall cause notice thereof to be served upon the accused. After the Board of Rights has first convened, the Board may continue the hearing of the matter to a specific date, and no other notice need be given, except as may be required by order of the Board.

(h) Composition of Board of Rights. The Board of Rights shall be composed of two officers of the rank of captain or above and an individual who is not a member of the department (the civilian member). The members selected as prescribed in this section shall constitute the Board for the purpose of hearing and deciding upon the matter for which it was specially drawn. The qualifications of, selection procedures for, and compensation of the civilian members shall be established by ordinance. Upon the filing of the request for a hearing before a Board of Rights, as provided in subsection (f), the accused shall draw four cards from a box

containing the names on cards of all officers who are qualified to be members of the Board of Rights (except the names of the accused, accuser, the Chief of Police, any staff or command officer specifically exempted by the Chief of Police in accordance with the provisions of the Board of Rights Manual or successor document, and any other officer who may be prejudiced or disqualified by reason of being a material witness to the facts constituting the charges made, otherwise disqualified for cause as determined by the Chief, or who has a conflict of interest). The accused shall select any two of the four names drawn to be members of the Board of Rights.

(i) Failure to Request a Hearing; Failure to Appear. In the event the accused fails to request a hearing before a Board of Rights as provided in subsection (f) within the period prescribed, the Chief may require a hearing to be held before a Board of Rights and may for that purpose, within five days after the expiration of such period, draw two names from a box to sit on the Board.

If a Board of Rights has been constituted for the purpose of hearing and the accused, without reasonable excuse, fails or refuses to appear before the Board at the time and place designated, the Chief of Police may, at his or her discretion, either direct the Board of Rights to proceed with the hearing in the absence of the accused, or the Chief may, without a hearing, impose a penalty of suspension, demotion in rank, suspension and demotion in rank, or removal as he or she deems fit and proper. The Chief shall cause notice of the action to be served upon the member and shall file a statement of the action with the Board of Police Commissioners within five days.

If the accused and Chief both fail to draw and create a Board of Rights within the period prescribed, the complaint shall be null and void.

(j) Oaths, Affirmations and Subpoenas. During an internal investigation, prior to a Board of Rights hearing, or prior to or during other administrative proceedings, the Police Commission may compel the attendance of witnesses and the production of evidence by subpoena. Upon demand of the Police Commission, the City Clerk shall issue a subpoena in the name of the city and attest the same with the corporate seal. The subpoena shall direct and required the attendance of the witnesses or the production of evidence, at the time and place specified. A request to quash a subpoena may be filed with the Police Commission who shall decide the matter. Each Board member shall have the power to administer oaths and affirmations in any investigation or proceeding pending before a Board of Rights, examine witnesses under oath, and compel the attendance of witnesses and the production of evidence by subpoena. Upon demand of any Board member, the City Clerk shall issue a subpoena in the name of the City and attest the same with the corporate seal. The subpoena shall direct and require the attendance of the witnesses or the production of evidence, at the time and place specified. It shall be the duty of the Chief of Police to cause all such subpoenas to be served upon the person or persons required to attend or produce evidence. It shall be the duty of

the Council to provide suitable penalties for disobedience of such subpoenas and the refusal of witnesses to testify or produce evidence.

(k) Legal Advice; Ex Parte Communication. Upon the request of any two Board members, the Board's chairperson shall request an attorney from the City Attorney's office who shall advise the Board on legal matters during or between any session of the hearing. The attorney need not be physically present at the hearing, but may advise the Board telephonically or through other means of communication. The attorney who advises the Board may not advise the department's advocate in the same matter.

Ex Parte communication with members of a Board of Rights regarding the subject matter of the hearing while proceedings are pending is prohibited. No person shall attempt to influence the decision of a Board of Rights except during the hearing and on the record.

(l) Burden of Proof. In Board of Rights proceedings, the department shall have the burden of proving each charge, including those based on conduct punishable in whole or in part as a crime, by a preponderance of the evidence.

(m) Representation; Transcript; Evidence. At the hearing, the accused shall have the right to appear in person and by counsel or representative, (at his or her expense) and make defense to the charge or charges and may produce witnesses and cross-examine witnesses.

All testimony at the hearing shall be given under oath and shall be reported by a stenographer for possible transcription. Upon prepayment of the fee for the preparation thereof, the accused shall be entitled to a certified copy of the transcript; provided, however, when the department has previously had all or a portion of the report transcribed, a copy of the previously prepared report(s) shall be given to the member without charge. When the report is transcribed, the original transcript shall be placed on file in the department.

Evidence of acts, irrespective of whether they were associated with a personnel complaint against the accused and irrespective of the resolution of the complaint, may be considered in the discretion of a Board of Rights if relevant to the charges, such as, if the acts tend to prove that the conduct charged is consistent with a pattern of conduct. The acts may have occurred either before or after the conduct concerning which the member is presently charged.

(n) Finding and Decision. The Board of Rights shall at the conclusion of the hearing make findings of guilty or not guilty on each charge, which findings shall be based only upon the evidence presented at the hearing. If the accused is found not guilty, the Board shall order the member's restoration to duty without loss of pay and without prejudice, and the order shall be self-executing and immediately effective. If the accused is found guilty, the Board of Rights shall prescribe its penalty by written order of:

- (1) suspension for a definite period not exceeding 65 working days with total loss of pay, and with or without reprimand; or
- (2) demotion in rank, with or without suspension or reprimand or both; or

- (3) reprimand without further penalty; or
- (4) removal.

The decision of the Board must be certified in writing and a copy delivered to the Chief of Police as soon as practicable, but in no event later than ten days after the decision of the Board of Rights. Whenever a Board of Rights prescribes a penalty of suspension or removal and the member is not currently relieved from duty, the Chief may temporarily relieve the member from duty pending execution of the order.

For purposes of this section, demotion in rank shall mean reduction in civil service classification. The provisions of this section shall not apply to reductions in pay grade or similar personnel actions caused by reassignment, deselection from bonused positions, and the like. Such personnel actions shall be administered under policies adopted by the department.

(o) Personnel History and Records. The departmental personnel history and records of the accused shall be available to the Board of Rights only if the accused has been found guilty of any charge upon which the member was heard or tried by the Board of Rights, and then only for the purpose of determining a proper penalty. At the penalty stage, the Board may consider the entire departmental personnel history and record of the accused which shall include, among other things, information concerning personnel complaints against the accused that were sustained and information derived from complaints against the accused that were not resolved, to the extent and in the manner allowed by department policy except that the medical package of the accused shall not be considered by the Board with regard to penalty unless such information is relevant to a charge as to which there was a finding of guilty. In prescribing the penalty, the Board shall look to the nature and gravity of the offense of which the member has been found guilty and may at its discretion review the departmental personnel history and record of the member. No item or entry in the record may be considered by the Board except in the presence of the member and only where the member has been given a fair and reasonable opportunity to explain any item or entry unless the member has failed or refused to be present. Personnel records introduced at or considered by the Board are confidential except for any document or information from a document that was publicly disclosed during the hearing.

(p) Imposition; Reduction of Penalty. Within ten days of delivery of a certified copy of the decision of a Board of Rights to the Chief of Police, the Chief shall either uphold the recommendation of the Board of Rights or may, at his or her discretion, impose a penalty less severe than that ordered by the Board of Rights, but may not impose a greater penalty. In the case of a demotion, suspension, demotion and suspension, or removal, the Chief shall cause a copy of the notice of the penalty to be served upon the member and shall file a statement of this action with the Board of Police Commissioners within five days.

(q) Effective Date of Penalty. A removal prescribed by the Board of Rights, or by the Chief of Police if no hearing is had before a Board of Rights, shall relate

back to and be effective as of the date of the relief from duty without pay pending hearing before and decision by the Board; however, where a final decision has been made by the Chief of Police prior to the end of the 30 day period referred to in subsection (b) (1), the removal shall be effective immediately. When there has been no relief from duty, the removal shall be effective upon service of the order. The effective date of any suspension and/or demotion prescribed by the Board of Rights, or by the Chief of Police if no hearing is had before a Board of Rights, shall be determined by policies adopted by the department; provided, that in case of suspension where there has been a temporary relief from duty, the 30 day period referred to in subsection (b) (1) or any portion thereof in which the member received compensation shall not be counted as part of the suspension. Nothing in this section shall preclude the imposition of a suspension without pay when a final decision is made prior to the end of the 30 day period. Practices in effect on the effective date of the most recent amendment to this section shall remain in effect until the adoption of any modification to the policies.

(r) Calendar Days. Except as otherwise provided in this section, all time periods, including those of limitation, shall be calculated in calendar days. When the last day of any such period falls on a weekend or City holiday, the period shall extend to the next business day.

(s) Not Guilty. In any case of a finding of Not Guilty of the accused after a hearing before a Board of Rights, the finding of Not Guilty shall be without prejudice to the member.

(t) Rehearing. At any time within three years after the effective date of removal, the removed member may file a request with the Chief of Police to be reheard or to be heard on the cause of the member's removal, together with a supporting affidavit setting forth in clear and concise language the reasons or grounds for a hearing or rehearing. The Chief shall consider and make a decision on the request and affidavit within 30 days after filing. If the Chief determines that good reason or cause exists for a hearing or rehearing, the Chief shall, without unnecessary delay, cause a Board of Rights to be constituted for the purpose of hearing and deciding upon the matter. The Board of Rights shall, at the conclusion of the hearing, render and certify its findings (independent of any previous findings by any other Board of Rights, or any other court, Board, or other tribunal, or any investigation or report of or discretion exercised by the Chief in such cases where no hearing was had before a Board of Rights) based only upon the evidence presented at the hearing. The Board shall make and certify its decision and order in writing and deliver a copy to the Chief. The Chief shall proceed in the same manner as provided for above after decision by a Board of Rights.

(u) Modification of Penalty. Following the filing of the notice of penalty with the Board of Police Commissioners as required in subsection (p), the Chief of Police may correct a technical error, or where there is good cause shown, may reduce a penalty, including restoration of a person following removal. The provisions of subsection (w) shall not apply to this subsection; however, the member

shall receive full compensation for any penalty or portion thereof already served which has been reduced or nullified by the Chief of Police. The Chief of Police shall file a copy of the modified order or statement of his decision with the Board of Police Commissioners.

(v) Other Legal Rights. This section shall not be construed to affect any rights a member may have to assert other legal rights or remedies in relation to his or her office or position or to the compensation attached thereto, or to appeal to or be heard or tried by any court or other tribunal of competent jurisdiction.

(w) Restoration to Duty. A member restored to duty after removal or temporary relief from duty, or whose suspension or demotion has been overturned in whole or in part, shall be entitled to receive full compensation from the City as if the nullified penal action had not been taken; except that such compensation shall not exceed one year's salary unless otherwise required by law.

(x) Decisions Based on Evidence. Members of a Board of Rights are to make decisions based solely on the evidence before them.

(y) Public Records. The order referred to in subsection (d) and the notice of the penalty referred to in subsection (p) are considered to be a public record at the time of filing of such documents with the Board of Police Commissioners. The Chief of Police or his or her designee shall be the custodian of public records referred to in this section.

(z) Effects of Amending This Section. This section shall not apply to the discipline of any member who was relieved from duty or who appealed a demotion or suspension or both to a Board of Rights.

Section 1. Section 1218 is added to Article XI, to read as follows:

Sec. 1218. Authority of City Council to Establish a Deferred Retirement Option Plan (DROP) by Ordinance.

(a) Council Authority. The Council may by ordinance adopted in accordance with the provisions of this section establish a program whereby a deferred retirement option plan (DROP) is created and offered to sworn members of the Fire and Police Departments on a voluntary basis as an alternative method of benefit accrual in the Fire and Police Pension Plans. The authority granted in this section shall include the authority to make necessary modifications to requirements of other Charter provisions of the various Fire and Police Pension Plans for the specific and limited purpose of implementing a DROP.

(b) Limitations of DROP. The authority given to the Council to establish a DROP is specifically limited as follows:

(1) DROP Shall Be Cost Neutral to the City. Members who elect to participate in the program will have access to a lump sum benefit in addition to their normal monthly retirement allowance at their actual retirement. With regard to plan funding, DROP shall be cost neutral to the City of Los Angeles as defined by the Plan's actuary. DROP shall be designed to ensure that the implementation of the program will not adversely affect the tax-qualified status of the Fire and Police Pension Plans.

(2) Five Year Window Period for Enrollment. There shall be a five-year window period for enrollment, after which the City may review and evaluate DROP and at its sole discretion determine to continue DROP by ordinance.

(3) Operability of this Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted. Courts of law shall have the exclusive authority to resolve disputes over whether an ordinance authorized by this section meets the cost neutrality requirement established by this section or satisfies any other legal requirement.

(c) Mode of Adoption. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618 (b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

Certified to be a true copy by Ruth Galanter, President of the City Council and Konrad Carter, Council Clerk.

Date of Primary Nominating Election: April 24, 2001.

Charter Chapter 15—City of Burbank

Amendments to the Charter of the City of Burbank

[Filed with the Secretary of State June 11, 2001.]

The last sentence of the first paragraph of Section 6 is amended to read as follows:

The time for holding all regular meetings of the Council shall be provided for by ordinance or resolution, but any regular meeting may be adjourned to a time certain, which adjourned meeting shall be a regular meeting for all purposes.

The second paragraph of Section 6 of the Charter is amended to read as follows:

Special meetings may be called as provided by the laws of the State of California.

The last paragraph of Section 6 is amended to read as follows:

Except as otherwise provided by State law, all meetings of the Council shall be open to the public and held in the City Hall or such other place as may be prescribed by ordinance or resolution, unless the Council is compelled to meet elsewhere by reason of fire, flood, earthquake or other emergency. The Council shall adopt rules for conducting its proceedings.

The first paragraph of Section 8 of the Charter is amended to read as follows:

The Council may take official action only by the passage or adoption of ordinances, resolutions or motions, as may be prescribed by the Constitution or laws of the State of California, and the provisions of this Charter; provided that any action of said Council fixing or prescribing a fine, punishment or penalty, or granting any franchise, shall be taken by ordinance. In the absence of any express provision to the contrary in said Constitution, laws or Charter, the Council may choose any of the foregoing three methods of taking such action. All proposed ordinances introduced in the Council shall be in printed form. The enacting clause of all ordinances passed by the Council shall read as follows: "The Council of the City of Burbank does ordain as follows:"

The third paragraph of Section 8 is amended to read as follows:

Except as herein provided no ordinance shall be passed by the Council on the day of its introduction, nor within five (5) days thereafter, nor at any time other than a regular meeting. Every ordinance shall be read in full only when requested by a majority of the Council. A proposed ordinance may be amended or modified between the time of its introduction and the time of its final passage, providing its general scope and original purpose are retained. All ordinances shall be signed by the Mayor and attested by the City Clerk, and the City Attorney's synopsis thereof shall be published at least once in a newspaper of general circulation and shall become effective at 12:01 a.m. on the 31st day from and after the date of the first publication or posting thereof, and in computing said time the day of adoption shall be excluded; provided, however, that an ordinance calling or otherwise relating to an election, or ordinances otherwise specially required by the laws of the State, or ordinances declared by the Council to be necessary as an emergency measure for preserving the public peace, health, safety or welfare or as mandated by a state or federal law, regulation, or permit condition, and containing the reasons for its urgency and passed by not less than four (4) members of the Council, or ordinances relating to bond issues, may be introduced and passed at one and the same meeting, and shall become effective immediately, if the Council shall therein so declare and shall be published in a newspaper of general circulation within fourteen (14) days thereafter. However, no measure creating or abolishing any office or changing the salaries, terms or duties of any office or creating any franchise or special privilege or creating any vested right or interest shall be construed to be an emergency or urgency measure.

Section 8A is amended to read as follows:

The duly adopted and effective ordinances of the City, when compiled, arranged and codified or recodified, may be adopted by reference by passage of an ordinance for such purpose. Detailed regulations not embodied in any ordinance, such as fire, building, plumbing, electrical, and heating and cooling codes, as well as codes on other subjects, may be enacted in the same manner. Amendments to such codes shall be adopted by the same procedures as amendments to ordinances generally. Copies of all codes adopted by reference, that are not commercially available for sale, shall be made available to the public at a reasonable price.

Section 9 is amended to read as follows:

The Mayor shall be the executive head of the City. In case of riot, insurrection or extra-ordinary emergency the Mayor, unless delegated to the City Manager by ordinance, shall assume general control of the City government and all of its branches and be responsible for the suppression of disorders and the restoration of normal conditions. In the name and on behalf of the City, the Mayor shall sign all contracts, deeds, bonds and other legal instruments in which the City is a party and countersign all warrants; provided, however, that the Council may by ordinance or resolution authorize any other person to sign the same. The Mayor shall represent the City at all ceremonial functions of a social or patriotic character when it is desirable or appropriate to have the City represented officially thereat. The Mayor shall not receive any compensation for services rendered except that received as a Council member provided in Section 5.

Section 10 (b) Subsection 8 is amended to read as follows:

8. Be responsible that all ordinances and laws are enforced. It shall be the responsibility and duty of each Department Manager in the City to inform and advise the City Manager of any information indicating lack of law enforcement in the City.

Section 10 (c) of the Charter is amended to read as follows:

(c) In case of the absence of the City Manager from the City, or of any temporary disability to act as such, the Assistant City Manager or such other person designated by the City Manager shall possess the powers and discharge the duties of the City Manager during such absence or disability. If there is no Assistant City Manager, or no person designated by the City Manager to act in his or her absence or disability, the Council shall appoint a City Manager pro tem, who shall possess the powers and discharge the duties of the City Manager during such absence or disability.

The last sentence in Section 11 (a) is amended to read as follows:

The City Attorney shall draft or review all ordinances, contracts, or other legal documents, or proceedings required by the Council or other officials, except as may be otherwise provided, and shall perform such other legal services from time to time as the Council may require.

Section 11 (b) of the Charter is amended to read as follows:

(b) The Council shall have the power to direct and control the prosecution and defense of all suits and proceedings to which the City is a party, or in which it is interested, and upon the recommendation of the City Attorney, may employ special counsel to assist the City Attorney therein and which the City Attorney shall direct and oversee, and shall provide for the compensation and pay of such counsel.

The first sentence of Section 12 is amended to read as follows:

There shall be a City Clerk elected every four (4) years at the primary or general municipal election who shall be Clerk of the Council.

The first sentence of Section 13 is amended to read as follows:

There shall be a City Treasurer elected every four (4) years at the primary or general municipal election.

Section 15 is amended to read as follows:

There shall be a Public Works Department supervised and directed by a Public Works Director appointed by the City Manager.

Section 18 is amended to read as follows:

There shall be a Fire Chief appointed by the City Manager. The Fire Chief shall be head of the Fire Department of the City, and shall have charge and supervision over all matters relating to the prevention and extinguishment of fires, and of all measures necessary to guard and protect all persons and property impaired thereby. During the time of a fire the Fire Chief shall always have supreme authority over the territory involved therein, and all persons in the immediate vicinity of the fire during such time, including police officers, shall be subject to the Fire Chief's orders.

Section 22 is amended to read as follows:

Every elective officer and every chief appointive official, provided for in this Charter, or any officer or employee authorized by ordinance, shall have the power to administer oaths and affirmations, and the City Council, either on its own behalf or upon the written request of any board and commission herein provided shall have the power to issue subpoenas, to compel by subpoena the production of books, papers, and documents, and to take and hear testimony or to order the giving of such testimony concerning any matter or thing pending before the Council or such board or commission.

The last paragraph of Section 27 is amended to read as follows:

The Council shall, by ordinance, order the holding of all elections. Every such ordinance shall specify the object and time of holding any such election. Such ordinance shall also direct the City Clerk to publish, not later than twenty (20) days prior to an election, a list of election precincts, designated polling places therefor, and election officers for each precinct. The ordinance shall also set forth the places of posting by the City Clerk of three (3) copies of such list of election precincts, polling places and election officers. One (1) copy of such list shall be posted on the bulletin board near the main entrance of City Hall; one (1) in the office of the City Clerk; and one (1) in the lobby of the Burbank Water and Power building; and said lists shall so remain until the day after such election. When two (2) or more municipal elections are consolidated by the Council, it shall not be necessary to set forth the precincts, polling places and election officers in more than one (1) list. If a municipal election is consolidated with a state or county election, it shall not be necessary to set forth the precincts, polling places, or election officers, but reference shall be made to the notice, resolution, or ordinance of the Board of Supervisors of Los Angeles County calling such election and fixing precincts, polling places and election officers. All ordinances ordering

the holding or consolidation of elections shall be published once in a newspaper of general circulation at least five (5) days prior to the date of such election.

The last paragraph of Section 28 is amended to read as follows:

The City Clerk shall present the result of the canvass of the returns of said election, together with any and all protests, to the Council at its next regular meeting after the expiration of said time for filing such protests. Unless a protest has been filed, the Council shall accept the canvass of returns by the City Clerk as correct and shall publicly declare the result thereof. When any such protest has been filed, the Council shall fix a time for such recount, not more than seven (7) days thereafter, for the City Clerk to conduct a recount of the ballots in the specified precinct or precincts only and as to said office or proposition. Upon the completion of such recount the Council shall publicly declare the result thereof. The action of the Council shall be final. The Council shall be the judge of the qualifications of all the elective officers of the City.

The title of Section 33 is amended to read as follows:

SECTION 33. WATER AND POWER DEPARTMENT.

The first sentence of Section 33 is amended to read as follows:

There shall be a Burbank Water and Power Department and a General Manager thereof, appointed by the City Manager.

The first sentence of the second paragraph of Section 33 is amended to read as follows:

The Burbank Water and Power Department shall supervise the construction, reconstruction, operation and maintenance of all public utilities now or hereafter owned and operated by the City, including the generation, purchase, distribution and sale of electric energy, water and gas, and may, with the approval of the Council, lease or rent any property connected with or appurtenant to any of its utilities and fix the rental charges thereof.

The first sentence of the third paragraph of Section 33 is amended to read as follows:

All funds received by the Burbank Water and Power Department shall be deposited in the City Treasury to the credit of the Department.

The last paragraph of Section 33 is amended to read as follows:

Funds not immediately needed by the Burbank Water and Power Department may be temporarily loaned to other departments of the City pending collection of tax receipts or other funds owing to such other departments.

Section 34 is amended to read as follows:

There shall be a Library Department and a Library Services Director thereof, appointed by the City Manager and a Board of Library Trustees, the number and terms of the members of which and the powers and duties of which shall be prescribed by ordinance.

Section 35 is amended to read as follows:

There shall be a City Planning Department in the City of Burbank either as a separate department or as a division of another department and a City Planning

Board, the number and terms of the members of which and the powers and duties of which shall be prescribed by ordinance.

Section 36 is amended to read as follows:

SECTION 36. PARK, RECREATION AND COMMUNITY SERVICES DEPARTMENT.

There shall be a Park, Recreation and Community Services Department and a Director thereof appointed by the City Manager and a Park, Recreation and Community Services Board, the number and terms of the members of which and the powers and duties of which shall be prescribed by ordinance.

Section 37 is amended to read as follows:

The Council shall provide for the establishment of a Civil Service System in the City of Burbank based on merit and fitness and shall provide for a Civil Service Board, the number and terms of the members of which and the powers and duties of which shall be prescribed by ordinance.

Section 37A is added to read as follows:

SECTION 37A. DEPARTMENT STRUCTURE.

Any department or function provided for in this Charter or by ordinance, may be subsequently combined with other divisions or departments, redivided, or otherwise reorganized at the discretion of the City Manager.

Section 45 is amended to read as follows:

SECTION 45. DEPOSITS WITH TREASURER.

All moneys collected for the City by an officer or department thereof shall be paid into the treasury daily at the direction of the City Treasurer.

Section 49 is amended to read as follows:

SECTION 49. FINANCIAL REPORTS.

Annual audited financial reports shall be submitted to the Council by the City Manager in such form as may be approved by the Council, and monthly financial reports shall be maintained by and available for public inspection in the Financial Services Department.

Section 52 is amended to read as follows:

The Council shall employ a certified public accountant annually, or, more often to investigate the transactions and accounts of all officers or employees having the collection, custody or disbursement of public money or property, or the powers to approve, allow or audit demands on the treasury.

Section 54 (a) is amended to read as follows:

Every contract involving an expenditure of City moneys of more than One Hundred Thousand Dollars (\$100,000) for public works construction shall be let to the lowest responsible bidder after notice by publication in a newspaper of general circulation by two (2) insertions, the first of which shall be at least ten (10) days before the time for opening bids. Such contracts may be let without advertising for bids if such purchase shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property or otherwise in the best interests of the City and shall be authorized by resolution passed by at least four

(4) affirmative votes of the Council and containing a declaration of the facts constituting the urgency or benefit. The Council shall have the right to waive any informality or minor irregularity in a bid. The City Manager may reject any and all bids presented and, in his or her discretion, may readvertise for bids, or recommend to the Council to dispense with competitive bidding. If the Council determines to dispense with competitive bidding, it shall do so by resolution, finding that it is in the best interests of the City, and such resolution shall be passed by at least four (4) affirmative votes.

Section 54 (b) is amended to read as follows:

Before making any purchase of, or contract for, supplies, materials, equipment or services (other than professional or contractual services which are, in their nature, unique and not subject to competitive bidding), the City Manager or a designated representative shall provide for competitive bidding under such definitions, conditions, terms, rules and regulations and with such exceptions as the Council shall prescribe by ordinance to be adopted by and only amended by, at least four (4) affirmative votes of the Council.

Section 56 is amended to read as follows:

Every franchise or privilege to construct, maintain, or operate any railroad, or other means of transportation in or over any street or highway, or to lay pipes or conduits, or erect poles or wires or other structures in or across any street or highway for the transmission of gas, electricity, or other commodity, or for the use of public property or places now or hereafter belonging to the City, shall be granted under and in pursuance of the provisions of this Charter, any applicable City ordinances, resolutions or policies and the general laws of the state relating to the granting of such franchises or privileges.

The Council may place any condition on such franchise or privilege not inconsistent with the Constitution or general laws.

Certified to be a true copy by Judie Sarquiz, City Clerk.

Date of Municipal Election: April 10, 2001.

Charter Chapter 16—City of Los Angeles

Amendments to the Charter of the City of Los Angeles

[Filed with the Secretary of State July 10, 2001.]

Section 1224 is added to read:

Section 1224. Authority of City Council to Reactivate Surviving Spouse Benefits to Persons Who Remarried Prior to December 5, 1996.

(a) Council Authority. The Council may by ordinance adopted in accordance with the provisions of this section reactivate the survivor benefit of a Qualified Surviving Spouse under any Tier of the Fire and Police Pension Plan who had

remarried prior to December 5, 1996, and, as a result thereof, had their survivor benefit discontinued.

(b) Limitations of Ordinance. The authority given to the Council to reactivate the survivor benefit is specifically limited as follows:

(1) No benefits shall be paid for any period prior to the effective date of this Charter amendment.

(2) Operability of this Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted.

(c) Mode of Adoption. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

Section 1. The title of Part 3, Article XI is amended to read:

**FIRE AND POLICE PENSION PLAN
GENERAL PROVISIONS**

Section 2. Section 1200 is amended to read:

Section 1200. Applicability.

Each Tier of the Fire and Police Pension Plan shall be governed by the following:

- (a) provisions specific to each Tier as set forth in this Article; and
- (b) these General Provisions for the Fire and Police Pension Plan.

Section 3. Section 1202 is amended to read:

Section 1202. Definitions.

For the purposes of the Tiers of the Fire and Police Pension Plan set forth in this Part 3, the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

- (a) City: The City of Los Angeles.
- (b) Board: The Board of Fire and Police Pension Commissioners.
- (c) Plan or System: The Fire and Police Pension Plan administered by the Board. Any reference in this Part to “Fire and Police Pension Plans” shall be deemed a reference to the Fire and Police Pension Plan.
- (d) Beneficiary: Person entitled to receive a benefit from the Plan.
- (e) Department Member: A person who is a sworn Member of the Fire Department or a sworn Member of the Police Department.
- (f) Retired Plan Member: A person who is a former Plan Member whose active duty status has been terminated and is receiving a regular monthly benefit payment from any Tier of the Fire and Police Pension Plan.

(g) Tier: Any one of the several benefit structures denominated as a “Tier” within the Fire and Police Pension Plan.

(h) Outside Agency: Any governmental entity other than the Fire or Police Departments of the City of Los Angeles.

(i) Transferring Employees: Employees of an Outside Agency who become Department Members pursuant to a merger or contract for fire or police services authorized by action of the Council.

Section 4. Section 1210 is amended to read:

Section 1210. Budget.

(a) Adoption of Annual Budget. The Board of Fire and Police Pension Commissioners shall adopt a budget each year setting forth the administration expense for each Tier of the Fire and Police Pension Plan. The budget shall be adopted at a meeting open to the public. At the discretion of the Council, administrative expense, which includes investment management expense, may be paid from the assets of the Plan.

(b) Separate Items of Budget. The Board shall annually prepare and transmit to the Mayor, Council and Controller a budget setting forth the estimated cost of maintaining the Fire and Police Pension Plan. The budget shall include each of the following separate items, whether such item is positive number or a negative number:

(1) Fire and Police Pension Plan—Tier 1.

(a) A sum equal to that percentage of the salaries of all Tier 1 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of new entrants into Tier 1. The entry age cost is defined as the level percentage of compensation of new Tier 1 entrants which must be paid into the Plan from their date of entry in order to provide the benefits under the Plan, less the contributions to be made by new entrants during the period of their membership as provided in Section 1324.

(b) A sum, which may be a positive number or a negative number, equal to the dollar amount shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 1 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all of the assumed obligations under Tier 1 of the Plan, less

(i) the present value of the future contributions to be made by the City under the preceding subsection and by the members under Section 1324, and

(ii) the assets of the Plan allocated for this purpose to the Fire and Police Tier 1 Service Pension Fund and to the Fire and Police Tier 1 General Pension Fund. The amortization period shall be 70 years beginning with the fiscal year 1967–1968.

(c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the Council under the authority of Section 1330 of Tier 1.

(2) Fire and Police Pension Plan—Tier 2.

(a) A sum equal to that percentage of the salaries of all Tier 2 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of new System Member entrants into Tier 2. The entry age cost is defined as the level percentage of salary of Tier 2 entrants which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to this Plan, less the deductions to be made from the salaries of new entrants, while they are Tier 2 Members, as provided by Section 1420.

(b) A sum, which may be a positive number or a negative number, equal to that percentage of the aggregate salaries of all members of the Fire Department and of the Police Department who are included under the provisions of Tiers 1, 2, 3 and 4 of this Plan, as shown in the last actuarial valuation required to amortize the unfunded liabilities of the Plan allocable to Tier 2 for the purpose of preparation of the budget, which sum will remain level as a percentage of salary, but which will increase in dollar amount in accordance with the aggregate salary increase assumption. The unfunded liabilities to be allocated are the present value of all of the assumed obligations under Tier 2 of the Plan less:

(i) the present value of the future contributions to be made by the City pursuant to the preceding subsection (2) (a);

(ii) the present value of the deductions to be made from the salaries of the Tier 2 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Tier 2 Service Pension Fund and the Fire and Police Tier 2 General Pension Fund.

The amortization period shall be 70 years beginning with the fiscal year 1967–68, except the Board shall assume that the unfunded liabilities of Tier 2 shall be \$258,000,000 as of July 1, 1967. Notwithstanding the foregoing, in the event that the unfunded liability as of any fiscal year beginning on or after July 1, 2001 with respect to Tier 2 is greater than zero, the amortization period for such unfunded liability shall be 30 years if less than the period specified in the preceding sentence. The amortization period for any increases in the unfunded liability for any subsequent fiscal year shall be the amortization period of 70 years beginning with the fiscal year 1967–68 or, if shorter, 30 years with respect to increases in unfunded liabilities resulting from amendment to the Plan and 15 years with respect to increases in unfunded liabilities resulting from actuarial experience losses; the amortization period for any decreases in unfunded liabilities shall remain unchanged.

(c) A sum sufficient to cover the cost, if any, as determined by actuarial estimate, of benefits granted by the Council under the authority of Section 1428 of this Tier 2.

(3) Fire and Police Pension Plan—Tier 3.

(a) A sum equal to that percentage of the salaries of all Tier 3 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of Tier 3 Member entrants into the Fire and Police Pension

Plan—Tier 3. The entry age cost being defined as the level percentage of salary of new Tier 3 Member entrants which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to the Tier 3 provisions, less the deductions to be made from the salaries of new entrants while they are Tier 3 Members.

(b) A sum, which may be a positive number or a negative number, equal to that percentage of salaries of all Tier 3 Members shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 3 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all the assumed obligations under Tier 3 of the Plan less:

(i) the present value of the future contributions to be made by the City under the preceding subsection 3(a);

(ii) the present value of the deductions to be made from the salaries of the Tier 3 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Pension Plan—Tier 3.

(c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the City Council by ordinance as authorized by Tier 3.

(4) Fire and Police Pension Plan—Tier 4.

(a) A sum equal to that percentage of the salaries of all Tier 4 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of Member entrants into Tier 4. The entry age cost is defined as the level percentage of salary of new Tier 4 Member entrants which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to the Tier 4 provisions, less the deductions to be made from the salaries of new entrants while they are Tier 4 Members.

(b) A sum, which may be a positive number or a negative number, equal to that percentage of salaries of all Tier 4 Members shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 4 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all the assumed obligations under Tier 4 of the Plan less:

(i) the present value of the future contributions to be made by the City pursuant to the preceding subsection 4(a);

(ii) the present value of the deductions to be made from the salaries of the Tier 4 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Pension Plan—Tier 4.

(c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the Council by ordinance as authorized by Tier 4.

(c) General Obligation of the City. For the purpose of providing funds to meet the budget of the Fire and Police Pension Plan, the Council annually shall provide from revenues available to it, funds sufficient to provide the total amount of all positive items, reduced by the total amount of all negative items, in the budget submitted by the Board, such reduction subject to any restrictions imposed by Section 401(h) of the Internal Revenue Code.

Section 5. Section 1220 is added to read:

Section 1220. Merger and Coordination of Separate Tiers.

Notwithstanding any provision of this Part 3 to the contrary, effective July 1, 2001:

(a) The separate Tiers of the Plan shall be merged together and shall thereafter be the single Fire and Police Pension Plan;

(b) The assets of the separate Service Pension Funds, General Pension Funds and other funds described in this Part 3 shall become the assets of the single Plan, but the funds may be accounted for separately by the Board for record keeping, actuarial and other administrative purposes. If the total of the items calculated under Section 1210(b) with respect to a single Tier is a negative number, the assets allocated to that Tier shall be reduced by the amount of such negative number that is applied as an offset to a positive total of items for another Tier. In addition, such offset shall be treated as an increase of assets allocated to such other Tier; and

(c) All of the assets in the Plan, regardless of the fund to which they may be assigned for record keeping, actuarial or other administrative purposes, shall be available to pay any of the benefits provided for under the Plan, except as otherwise provided by Section 401(h) of the Internal Revenue Code.

(d) Notwithstanding the preceding subsections of this section, Member Contributions shall be paid into the applicable Service Pension Fund, and the moneys in the Service Pension Fund(s) shall continue to be applied solely to the payment of service pensions and, if applicable, refunds to Members.

(e) The Council is hereby authorized to provide by ordinance conforming and technical changes to this Part to implement the intention of this Section that the Tiers function as different benefit structures within the single Plan. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter.

Section 6. Section 1222 is added to read:

Section 1222. Authority of City Council to Establish a New Pension Tier by Ordinance.

(a) Council Authority. The Council shall by ordinance adopted in accordance with the provisions of this section establish a new tier to be known as Tier 5 to the Fire and Police Pension Plan. Such ordinance shall be adopted by the Council no later than December 31, 2001.

(b) Provisions of Tier 5. The new tier to the Fire and Police Pension Plan shall include the following provisions:

(1) Eligibility for Membership: Each person who shall be appointed as a Department Member on or after January 1, 2002, shall become a Tier 5 Member. In addition, any Plan Member currently in Tiers 2, 3, or 4, as of January 1, 2002, hired prior to that date who makes an irrevocable election in writing during a six to twelve month time period to be specified by the Board of Fire and Police Pension Commissioners after adoption of this section shall become a Tier 5 Member.

(2) Service Pension Formula. Normal Retirement shall be with a minimum of 20 years of service and a minimum age of 50 years. The minimum service pension payable shall be equal to 50% of Final Average Salary at age 50 with 20 years of service. For each year of service after 20 years, an amount of 3% of Final Average Salary shall be provided per year of service, with the exception of the 30th year, in which 4% shall be provided. The maximum percentage of Final Average Salary payable, regardless of length of service, shall be 90% of Final Average Salary. The definition of Final Average Salary shall be the same definition as contained in Tier 3. Notwithstanding the above, a Tier 5 Member may elect a deferred retirement with at least 20 years of service, however, the retirement formula will be identical to that contained in Tier 3.

(3) Member Contributions. Each Tier 5 Member shall contribute by salary deduction at a rate of 9% of the amount of his or her salary, except that further contributions shall not be required from a Tier 5 Member who has served as a Plan Member more than 33 years. The City shall pay 1% of this contribution contingent on the Fire and Police Pension Plan remaining at least 100% actuarially funded for pension benefits. In the event Section 1220 of the Charter becomes inoperative, employee contributions shall increase by one-half the increase in the Normal Cost of Tier 5 over the Normal Cost of Tier 3, immediately prior to the inception of Tier 5, as defined by the Plan's actuary.

(4) Refund of Contributions. Tier 5 Members shall upon termination of employment be entitled to a refund of contributions.

(5) Cost-of-Living Adjustments. The annual cost of living adjustment shall be the equivalent to the provisions of Tier 3, except that there shall also be included a provision providing for the banking of amounts above the maximum annual increase and a provision crediting such banked amounts to members' pensions during years when the applicable Consumer Price Index is less than the maximum permitted.

(6) Recall to Active Duty. The recall to active duty provisions shall be substantially identical to those currently provided for in Tier 2, Charter Section 1410(b).

(7) Compliance with Certain Internal Revenue Code Provisions. Tier 5 shall contain substantially identical provisions regarding compliance with Internal Revenue Code provisions as those set forth in Section 1520 of this Charter.

(8) Other Provisions and Definitions. All other provisions and definitions of Tier 5 not otherwise described herein shall be substantially identical to those of

Tier 3. Notwithstanding the above, Tier 2 Members who elect to transfer into Tier 5, shall retain the existing Tier 2 Survivorship pension benefits contained in Section 1414 of this Charter, subject to the cost of living adjustment described in subsection (5), except that the active duty death survivor benefits shall be calculated at the higher rate currently contained in Tier 3.

(c) Technical Corrections. The Council is hereby authorized to provide conforming and technical changes to Tier 5 that do not result in any additional costs to the Fire and Police Pension Plan.

(d) Operability of the Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted. Courts of law shall have the exclusive authority to resolve disputes over whether an ordinance authorized by this section satisfies any legal requirement.

(e) Mode of Adoption. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter, but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

Certified to be a true copy by Ruth Gallanter, President of the City Council, and Konrad Carter, Council Clerk.

Date of Municipal Election: June 5, 2001.

Charter Chapter 17—City of Monterey

Amendments to the Charter of the City of Monterey

[Filed with the Secretary of State December 27, 2001.]

Current Charter Section 4.8 is deleted and in its place, the following Section 4.8 is inserted:

Sec. 4.8 Contracts For Public Works.

The construction, reconstruction, or improvement of any public work in excess of \$50,000.00, including the supplying of materials, supplies, and labor, shall be let by contract to the lowest responsible bidder after public bidding, except as set forth in this Section. The Council shall, by Ordinance, establish procedures for public bidding, including the contracting for public works less than \$50,000.00 and the purchase of equipment, supplies, materials, or services.

The \$50,000.00 limit set forth above shall be increased by \$5,000.00 on July 1, 2005, and by the same amount on July 1st of each fifth year thereafter.

The City may contract with other governmental agencies or public utility companies for the erection of public works, or for the purchase of equipment, supplies,

materials, or services without the need for bidding if it first finds that the government agency or public utility has substantially complied with the City's bidding or purchasing process.

In the event of an emergency caused by fire, flood, earthquake, storm, or similar disaster, the Mayor or City Manager may order the suspension of normal bidding or purchasing requirements for projects related to abatement of the impacts or effects of such emergency. The City Council shall, if possible, ratify such emergency suspension of procedures within seventy-two (72) hours and consider whether further suspension of procedures is required to abate the impacts of the emergency.

Notwithstanding any provision above, the City Council may award individual annual contracts, referred to as "job order contracts", none of which may exceed one million dollars (\$1,000,000.00) adjusted annually on July 1st to reflect the percentage change in the California Consumer Price Index, for repair, remodeling, paving, sidewalk repair, or other repetitive work to be done according to unit prices. No annual contracts may be awarded for any new construction; however, job order contracts may be utilized for new projects less than \$50,000.00, adjusted as set forth above. The contracts shall be awarded to the lowest responsible bidder and shall be based on plans and specifications for typical work.

For purposes of this section, the term "unit price" shall mean the amount paid for a single unit of an item of work, the term "typical work" shall mean a work description applicable universally or applicable to a large number of individual projects, as distinguished from work specifically described with respect to an individual project, and the term "repair, remodeling, paving, sidewalk repair, or other repetitive work to be done according to unit prices" shall not include design or contract drawings.

Certified to be a true copy by Bonnie L. Gawf, City Clerk.

Date of Municipal Election: November 6, 2001.

